

Exhibit A

**In the Matter Of:**

**Burns vs Griffin**

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**Trevor Burns**

*April 28, 2017*

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441 LEXINGTON AVENUE  
2ND FLOOR  
NEW YORK, NY 10017

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2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 16 CV 782 (VB)

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4 TREVOR BURNS,

5 Plaintiff,

6 - against -

7 THOMAS GRIFFIN, MICHAEL T. NAGY  
8 MARK A. TOKARZ AND DANIEL J. SHAW.

9 Defendants.

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10

11 April 28, 2017  
12 11:20 a.m.

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594 Route 216  
14 Stormville, New York

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20 EXAMINATION BEFORE TRIAL OF TREVOR BURNS,  
21 the Plaintiff herein, taken by the Defendant,  
22 held at the above time and place, before Gina  
23 Ruocco, a Shorthand Reporter and Notary Public  
24 of the State of New York.

25

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2	APPEARANCES:	2
3	NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL	3
4	Attorneys for Defendants	4
5	The Capitol	5
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7		7
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11		11
12		12
13		13
14	ALSO PRESENT:	14
15	Tim Small, Legal Assistant	15
16		16
17		17
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1		1
2	TREVOR BURNS,	2
3	called as a witness, having been first duly	3
4	sworn by a Notary Public of the State of	4
5	New York, was examined and testified	5
6	as follows:	6
7	EXAMINATION BY MS. DAWKINS:	7
8	Q. Good morning. My name is Julinda	8
9	Dawkins, the attorney for the defendants in this	9
10	action which is pending in the United States	10
11	Southern District of New York.	11
12	The purpose of this deposition is for me	12
13	to ask you questions about the incident which gives	13
14	rise to your lawsuit.	14
15	A. All right.	15
16	Q. I would be asking you a series of	16
17	questions, and the reporter will be recording your	17
18	answers.	18
19	A. Okay.	19
20	Q. You must give verbal responses to all of	20
21	the questions. If you nod to acknowledge, just	21
22	follow up with a verbal response. Okay?	22
23	A. All right.	23
24	Q. Do you understand that?	24
25	A. I understand.	25

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1	Trevor Burns	Trevor Burns
2	Q. Was it before or after breakfast or	2 A. Not this particular medication, but they
3	something else?	3 gave me something awhile ago. Then I just stopped
4	A. It was, like, during breakfast.	4 taking it because my pressure went down. So it just
5	Q. And, as you sit here today, are you	5 suddenly risen back up, so I take it again.
6	suffering any side effects or any stomach pains or	6 Q. In the time frame that you've been
7	anything to that effect?	7 taking this medication, have you had any side
8	A. Depends. If I move a certain way, I may	8 effects?
9	feel the pain, but other than that, no.	9 A. No, not that I know of.
10	Q. And you said you took high blood	10 Q. And you said you took aspirin?
11	pressure medication?	11 A. Yes.
12	A. Yes.	12 Q. What dosage did you take?
13	Q. When did you take it?	13 A. Small doses. I don't recall the exact
14	A. This morning.	14 amount of dosage.
15	Q. What time?	15 Q. And when did you take it?
16	A. Probably about ten-something, a little	16 A. This morning, last night.
17	bit before I came down here.	17 Q. And what did you take the aspirin for?
18	Q. And what was the dosage that you took?	18 A. I guess like cholesterol and the blood,
19	A. 10 milligrams.	19 stuff like that, too much.
20	Q. How long have you been on this high	20 Q. Have you suffered any side effects from
21	blood pressure medication?	21 taking the aspirin?
22	A. They just, about -- say about a month,	22 A. No, not that I'm aware of.
23	if that.	23 Q. Do you believe taking ibuprofen will
24	Q. Had you ever taken this medication	24 affect your testimony, your ability to testify
25	before a month ago?	25 today?
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1	Trevor Burns	Trevor Burns
2	A. No.	2 difficulty breathing.
3	Q. And do you think the high blood pressure	3 Q. And let's go back to your back. What
4	medication you took will affect your ability to	4 specifically do you feel with regard to your back?
5	testify here today?	5 A. My entire -- on certain movements, I
6	A. No.	6 have sharp -- sharp pains in my back.
7	Q. Do you believe that the aspirin you took	7 Q. How often do you get the sharp pains?
8	will affect your ability to testify here today?	8 A. Almost every day. That's why I'm taking
9	A. No.	9 ibuprofen.
10	Q. Were there any medication that you were	10 Q. When did you begin to experience that
11	supposed to take but did not take?	11 back pain?
12	A. No.	12 A. Some time ago, but it persisted once I
13	Q. Have you consumed any alcohol within the	13 got into the little incident here.
14	last 24 hours?	14 Q. When you say "some time ago," can you
15	A. No.	15 give me a time frame?
16	Q. Did you consume any other intoxicating	16 A. Couple years back.
17	substances in the past 24 hours?	17 Q. What precipitated that back pain?
18	A. No.	18 A. I'm not absolutely sure.
19	Q. Other than high blood pressure, do you	19 Q. Now, do you participate in any kind of
20	presently have any other medical conditions?	20 exercise?
21	A. Yes.	21 A. Yes, per the doctor's orders.
22	Q. What specifically?	22 Q. What do you do?
23	A. I'm in pain a lot, my back, my wrists.	23 A. Calisthenics if it's not too much.
24	Q. Anything else?	24 Sometimes he tell me to try to lift a little
25	A. Yes, my eyes. Sometimes I have	25 weights, stuff like that. I try that occasionally

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1	Trevor Burns	1	Trevor Burns
2	until it's too much, then I got to leave it alone.	2	A. About three times a week.
3	Q. When you say you lift weight, how much	3	Q. And when you would lift weights about
4	do you lift?	4	three times a week, what, if anything, did you
5	A. The small -- smaller weights, the	5	experience? This is five years ago.
6	dumbbells, stuff like that.	6	A. Burn from the -- from the weights.
7	Q. About how much do -- how many pounds?	7	Q. You said that you experienced wrist
8	A. They don't have a number on it. They	8	pain. Can you tell me about that?
9	just there.	9	A. Yeah. Just my left wrist, when it was
10	Q. And about how often do you do that	10	injured, you know, a lot of times I have sharp
11	activity?	11	shooting pain up all the way up to the elbow, and
12	A. Actually, I kind of stopped for some	12	it's numb fingertips and stuff like that.
13	time now, but off and on. I just -- my body is	13	Q. When did you sustain the injury to the
14	deteriorating.	14	left wrist?
15	Q. So about five years ago, did you do any	15	A. The initial injury is what caused the
16	kind of weightlifting?	16	surgery was years ago. I think it was like 1997, 8.
17	A. Five years ago?	17	Q. And what happened at that time? Like
18	Q. Five years ago.	18	how did you injure it?
19	A. Yeah, occasionally.	19	A. I didn't injure it. I was in a
20	Q. About how much would you lift?	20	situation with an officer, then it was somehow --
21	A. They don't have the numbers of the	21	became broken.
22	amount of weights on it, so we don't really know the	22	Q. You said you had surgery on it; can you
23	exact amount.	23	tell me exactly what was done?
24	Q. About how often would you lift weights?	24	A. It was a resection of the left ulnar.
25	Again, five years ago?	25	Q. And who performed that surgery?
	Page 20		Page 21
1	Trevor Burns	1	Trevor Burns
2	A. Dr. Schwartz, orthopedic surgeon.	2	sharp pain?
3	Q. And what hospital or facility is he	3	A. Not really. Sometimes it does;
4	associated with?	4	sometimes it does not.
5	A. Saint Agnes.	5	Q. Have you seen a physical therapist for
6	Q. Saint Agnes?	6	that wrist?
7	A. I think so. That's the name of the	7	A. Years ago, but now they're not allowing
8	hospital.	8	me to see him for whatever reason.
9	Q. And after the surgery, were you given	9	Q. You mentioned your eyes; can you tell me
10	any instructions with regard to your wrist?	10	what it is that's wrong with your eyes?
11	A. I don't recall. That's quite some time	11	A. Well, after the incident, I've
12	ago.	12	experienced a lot of pain in my eyes, headaches. I
13	Q. And you mentioned sharp shooting pain;	13	14 developed some sort of infection. It was like mucus
14	how frequently do you get that?	15	coming out of my eyes, so they administered some
15	A. Almost every day.	16	type of antibiotics to subside the problem that I
16	Q. And do you have to do any kind of	17	had.
17	activity, or can you tell me about --	17	Q. I see that you're wearing glasses today.
18	A. At -- the doctor instructed me. He	18	How long have you worn glasses?
19	says, you know, rotate your hand a lot. Try not to	19	A. About a couple of years now.
20	put too much pressure on it. Open and close finger	20	Q. When you say "a couple of years," can
21	exercises and stuff like that.	21	you estimate?
22	Q. When you do those exercises what, if	22	A. About three years.
23	anything, do you experience?	23	Q. And what do you use the glasses for?
24	A. Sharp pains.	24	A. Outside, UV rays glasses, like when you
25	Q. Does the exercise help to relieve that	25	go outside, they turn up, they turn dark.

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1	Trevor Burns	1	Trevor Burns
2	Q. But are you nearsighted, farsighted, or	2	shocking, pounding headaches constantly.
3	anything?	3	Q. When did you start experiencing those
4	A. No. It helps stop the pain in my eyes	4	headaches?
5	when I'm exposed to bright lights and stuff like	5	A. I had them off and on years ago, but
6	that in the sun.	6	more so after the incident.
7	Q. Are those prescription glasses?	7	Q. And you mentioned that infection in your
8	A. Yes.	8	eyes; was it both eyes, one, or something else?
9	Q. Who prescribed those?	9	A. No, both eyes. Yeah.
10	A. Some eye doctor that I don't know his	10	Q. And can you tell me how long that
11	name.	11	infection persisted?
12	Q. And the particular glasses that you're	12	A. Initially I believe a couple of days,
13	wearing today, how long have you had those?	13	and then they issued me some type of antibiotics.
14	A. About a year, if that.	14	It subsided the infection, and then it reoccurred
15	Q. And where were you when you got those?	15	again, so the doctor offered me the antibiotics
16	Were you at this facility?	16	again. Then it went away.
17	A. I was at the facility, yes.	17	Q. And when you say antibiotics, how did
18	Q. And previous to that, where did you get	18	you take those? Was it oral?
19	your glasses from?	19	A. No. I had to take some type of eye
20	A. The street.	20	drops five times a day.
21	Q. Now, you mentioned that you get	21	Q. So it was a liquid that was --
22	headaches; can you tell me about that?	22	A. A liquid that was dropped into the eye.
23	A. Every day I get a lot of headaches,	23	Q. And the first time, you said, after two
24	pounding headaches, and at times, it's unbearable,	24	days it went away, or something else?
25	but the medication sometimes helps, but it's like	25	A. After a few days. I'm not absolutely
	Page 24		Page 25
1	Trevor Burns	1	Trevor Burns
2	sure.	2	Q. Can you describe what happened with
3	Q. When you say "a few," I'm trying to get	3	regard to the eyes? Did they become discolored,
4	an estimate. Was it a week? Was it --	4	dizzy, or something else?
5	A. Yeah, I can't give you a precise answer	5	A. No. I was -- I mean, my vision was
6	because I don't know the exact date -- amount of	6	obviously blurry, you know, my eyes were swelling up
7	days unless I, you know, use the documents to	7	a bit, and it was like some white stuff coming out,
8	recall.	8	some, like, mucus or pus or something like that
9	Q. And then you mentioned that it	9	coming out of my eyes. I went to the doctor,
10	reoccurred. Can you tell me how much time elapsed	10	explained my symptoms. He looked at it. Actually
11	between when it went away the first time and then it	11	it was a female doctor, Dr. Wolf, I think, and then
12	reoccurred?	12	she issued me the medication.
13	A. Probably a couple of weeks to a month or	13	Q. And, again, the pus and the blurriness
14	so.	14	was in both eyes?
15	Q. And then when -- the second time you	15	A. Yes.
16	went under antibiotics, did it completely clear it	16	Q. And you said it was puffy, was that both
17	up?	17	eyes also?
18	A. Yes.	18	A. My left was more puffy than the right.
19	Q. And since that time, have you had any	19	They both were puffy though. One was a little more
20	reoccurrence?	20	swollen up.
21	A. No.	21	Q. And in order to diagnose the infection,
22	Q. Now, you mentioned -- can you tell me	22	what, if anything, did the doctor do for you?
23	what exactly the infection was?	23	A. She did an initial examination, asked me
24	A. I don't know what it was. The doctor is	24	the symptoms that I was experiencing. She looked at
25	the one that probably be more precise. I don't --	25	it, and then she issued the medication.

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1	Trevor Burns	
2	Q. What symptoms did you tell her you had?	
3	A. I told her I was having pain in the	
4	eyes, sharp stinging pain, my vision was blurry.	
5	And she was aware of the situation that took place,	
6	and I guess based upon her expertise, she came to	
7	the conclusion that antibiotics were the best thing	
8	for me.	
9	Q. How often did you see her about the	
10	infection to your eyes?	
11	A. I believe like once or twice, if that.	
12	Q. You mentioned difficulty breathing; can	
13	you tell me what you mean by that?	
14	A. When this guy released the gas or the	
15	chemical agents, whatever, it was a tremendous	
16	amount that I held, because we were kind of forced	
17	to sit there for a minute. And it was -- I had a	
18	significant amount of time to try to -- not a	
19	significant amount of time, a short amount of time	
20	to try to, you know, grab my breath, but it was just	
21	difficulty breathing. You know, you got chemicals	
22	all in your lungs and stuff like that.	
23	Q. Well, what would you experience? When	
24	you say "difficulty," it's not very specific.	
25	A. Yeah, like suffocating. I mean, small	
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1	Trevor Burns	
2	Q. When you say some time ago, within the	
3	past month, within the past year, something else?	
4	A. Within the past year.	
5	Q. Within the past six months?	
6	A. I don't know it was the past six months.	
7	Q. When you saw that doctor, what, if	
8	anything, did you say?	
9	A. I explained what happened, and he wrote	
10	some notes down, and that was basically it.	
11	Q. Did this doctor do anything for you?	
12	A. No.	
13	Q. Did he give you any medications?	
14	A. No.	
15	Q. Did he perform any tests?	
16	A. Aside from using a stethoscope to see my	
17	chest and my back, other than that, no.	
18	Q. At the end of that examination, what, if	
19	anything, did the doctor say?	
20	A. He didn't say anything.	
21	Q. Did you ask the doctor any questions?	
22	A. Yes.	
23	Q. What did you say? What did you ask?	
24	A. I asked him, you know, what's the	
25	problems, so and so forth. He said just drink water	
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1	Trevor Burns	
2	and take the medication that you received.	
3	Q. What medication are you referring to?	
4	A. The ibuprofen and a couple pills that	
5	they gave you over the counter.	
6	Q. Do you know what those pills were?	
7	A. Ibuprofen, less dosage.	
8	Q. Now, you say you lose your breath doing	
9	certain activities. Can you tell me what those	
10	activities are?	
11	A. If I walk for an extended period of time	
12	or sometimes just sitting down breathing, I have	
13	difficulty breathing.	
14	Q. And when you say walk for a certain	
15	period of time, can you tell me what that time frame	
16	is? Is it after a minute? Five minutes?	
17	A. Yeah, about five, five minutes or so.	
18	Q. And when you walk, what speed?	
19	Moderate, fast, slow, or something else?	
20	A. I'd say moderate.	
21	Q. What about climbing steps, any problems	
22	doing that activity?	
23	A. To a certain degree. Not as bad it was	
24	before. Now it's kind of lessening now.	
25	Q. What do you experience when you climb	

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1	Trevor Burns	Trevor Burns
2	there. They tell you to line up in order. There's	corridor into the mess hall, or is there a different
3	a line, and you got to stand in front of the line.	route?
4	So we all lined up outside the housing unit.	4. A. Okay. There's -- there's a corridor,
5	Q. And the officer that said to line up,	5. then there's -- it's like an area about the size of
6	what was that person's name?	6. this room, and then there's another mess hall.
7	A. I don't know who it was.	7. There's a -- excuse me, there's door area where we
8	Q. Did that person work on your block?	8. enter the mess hall.
9	A. Possibly.	9. Q. And before entering the mess hall, do
10	Q. Had you seen that officer before?	10. you have to do anything?
11	A. I don't know who it was.	11. A. No. We just stand there and line up.
12	Q. Now, after lining up, what happens next?	12. Q. And once you enter the mess hall, what
13	A. Officer takes the count, wait, and then	13. happens?
14	he directs us to B and C corridor.	14. A. The sergeant will tell the officer which
15	Q. And how far did you have to get to --	15. side of the mess halls should we be directed to be
16	from where you were lined up to the B and C	16. seated.
17	corridor?	17. Q. Which side were you directed to on that
18	A. About a length of a block.	18. date?
19	Q. What happened once you get to the end of	19. A. I believe the left side.
20	that corridor?	20. Q. Now, what happened next?
21	A. There's two separate gates. There is	21. A. What happens next?
22	other officers that's inside the corridor. They	22. Q. Yeah, after you get directed to go to
23	wait until the sergeant tells them to allow us to	23. whatever side you're going to be on, do you get your
24	enter the mess hall.	24. trays?
25	Q. Now, did you go directly from the	25. A. No, we don't get tray right there.
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1	Trevor Burns	Trevor Burns
2	Q. Okay.	2. A. It's not a specific area that we're
3	A. We got to line up again. We walk --	3. directed to sit at. It depends on when we come into
4	walking like a oval shape. We line up, then officer	4. the mess hall when we go to chow. Like we go first,
5	calls five people at a time to get our trays.	5. we directed to sit at the first row of tables, and
6	Q. And how big is the mess hall?	6. then immediately behind us, whatever block comes in,
7	A. It's pretty big. Figure-wise --	7. they just fill up the seats, even if we're all at
8	Q. Is it just a square room?	8. the same table, they'll fill up those seats. And
9	A. It's a square room, definitely.	9. then so on so forth, they just continue to fill up
10	Q. What's inside the room?	10. the seats.
11	A. Tables, multiple tables.	11. Q. So when you arrived at the mess hall on
12	Q. About how many tables?	12. August 3rd, 2015, were there any other individuals
13	A. Probably enough to sit two to three	13. in there already?
14	hundred people.	14. A. I'm not absolutely sure, but most
15	Q. How do you know where to sit?	15. likely, yes.
16	A. When you first come to the facility,	16. Q. About how many? Was it filled? Was
17	everybody got to sit at each table. Each table has	17. it --
18	eight seats, roughly eight chairs that's connected	18. A. No, it was nowhere near filled, but it
19	to the table. We just fill up the whole table then	19. was quite a few people in there.
20	next to it, we got to sit next to it.	20. Q. And can you tell me what happened? Did
21	Q. So the tables aren't divided by block,	21. you get your tray?
22	like certain blocks have to sit together or --	22. A. Yes, I retrieved my tray. Then I walked
23	A. No. They all divided by blocks.	23. down. It was like a middle aisle that you go to,
24	Q. So where does B-Block sit in the mess	24. either go right or you go left. I believe I went
25	hall?	25. right at that time, and I sat down.

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1	Trevor Burns	1	Trevor Burns
2	Q. When you sat down, were there anyone	2	Q. When you say they were fighting, can you
3	else sitting at that table?	3	describe what they were doing?
4	A. Yes.	4	A. Throwing punches at each other.
5	Q. Who were those individuals?	5	Q. So you actually saw a punch connect?
6	A. I don't -- I don't remember their names.	6	A. I didn't see a punch connect, but I knew
7	Q. Were they from your block?	7	they were fighting. Obviously there was a lot of
8	A. Yes, some may have been from my block or	8	commotion over there.
9	some may have been from another block that was	9	Q. But prior to the officers, how did you
10	directly behind us.	10	know they were fighting?
11	Q. And did you eat that morning?	11	A. Everybody in the mess hall turned and
12	A. I was eating breakfast.	12	looked in that direction. Guys were swinging at
13	Q. At some point, did you stop eating?	13	each other.
14	A. Yes.	14	Q. And you said that everybody was looking.
15	Q. Why?	15	What exactly did they do?
16	A. Because a fight broke out.	16	A. What exactly who do?
17	Q. And who was fighting?	17	Q. The other inmates that were in the mess
18	A. Two guys on the adjacent side of the	18	hall?
19	mess hall.	19	A. Just looked at the incident.
20	Q. When you say "adjacent," where were	20	Q. Did they get up?
21	they?	21	A. No, not that I recall.
22	A. Toward, I believe, my left.	22	Q. Did you get up when you were -- became
23	Q. How far away were they?	23	aware that there was a fight?
24	A. Probably like twenty feet, fifteen to	24	A. No.
25	twenty feet away.	25	Q. Now, you said there were officers that
Page 64		Page 65	
1	Trevor Burns	1	Trevor Burns
2	arrived. Can you tell me how long after the fight	2	Q. So who --
3	broke out that the officers came on the scene?	3	A. -- at the time.
4	A. Immediately.	4	Q. What were the names of the officers
5	Q. About how many officers?	5	stationed in the mess hall that day?
6	A. Fifteen to twenty. Probably more than	6	A. I don't know.
7	that.	7	Q. Can you describe any of them?
8	Q. Can you tell me the names of the	8	A. No.
9	officers that responded?	9	Q. The inmates that were fighting, do you
10	A. No.	10	know who they were?
11	Q. When did you first become aware that	11	A. No, I don't know them.
12	there was a fight? Was there a sound? Was there --	12	Q. Have you ever learned who they were?
13	A. It was a sound. You hear -- you know,	13	A. No. No.
14	you look, everybody turns in one direction eating,	14	Q. Do you know those inmates? Have you
15	and then immediately after that, everybody turns in	15	seen them before?
16	one direction and you hear the sound, officers are	16	A. No.
17	screaming "break it up." They're immediately on the	17	Q. So the inmates were fighting, and the
18	scene so --	18	officers responded. What happened next?
19	Q. When you say "immediately," about how	19	A. They had them subdued on the ground,
20	fast?	20	handcuffed them.
21	A. A matter of seconds, because right next	21	Q. Did you see the handcuffs being placed
22	to the guys that were fighting, the officers are	22	on the inmates?
23	stationed right there. There's at least four	23	A. ***It was from a little distance, but
24	officers on each side of the mess hall, so like a	24	obviously the officers taking stuff off their waste
25	total of eight --	25	and handcuffing their hands behind the back.

Page 66		Page 67
1	Trevor Burns	Trevor Burns
2	Q. And were you wearing your glasses on	2 A. I don't know whether it was shoes or
3	that day?	3 boots. I know I had socks on.
4	A. Yes.	4 Q. So the inmates were placed in handcuffs.
5	Q. Can you describe what else you were	5 Were both inmates handcuffed?
6	wearing?	6 A. Yes.
7	A. I don't recall exactly what I was	7 Q. And then what happened?
8	wearing.	8 A. That's when the Officer Nagy released
9	Q. What were you wearing on your feet?	9 the gas.
10	A. I don't recall what I was wearing at	10 Q. Now, how did you know it was
11	that time.	11 Officer Nagy that released the gas?
12	Q. Were you wearing a shirt?	12 A. Where I was sitting, he was directly
13	A. I was wearing a shirt.	13 above when the gas blew?
14	Q. Did you have anything underneath your	14 Q. And where did the gas come from?
15	shirt?	15 A. The ceiling.
16	A. T-shirt.	16 Q. And what's in the ceiling?
17	Q. Were you wearing short sleeves, long	17 A. What's in the ceiling?
18	sleeves, or something else?	18 Q. Yeah. Like is there tubing? Is
19	A. I don't recall if it was short or long	19 there --
20	sleeves.	20 A. Oh, yeah, there are tubes. I think
21	Q. Okay. And you had pants on?	21 there are three tubes in each apparatus. I believe
22	A. Yes. I was wearing --	22 one, two, three, four, on each side of the mess
23	Q. And did you have underwear on?	23 hall. No, two on each side of the mess hall.
24	A. Yes.	24 There's about three holes in each one -- in each
25	Q. And you had shoes with socks?	25 tube or apparatus, whatever it is, and that's where
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1	Trevor Burns	Trevor Burns
2	the gas was released out of.	2 so. I'm just trying to phrase it. I'm not going
3	Q. Now, where were you with regard to these	3 into detail what he said.
4	tubes? Were they directly above you or something	4 Q. Do you recall what he said? Just as
5	else?	5 much --
6	A. They were a little ways behind me.	6 A. Somewhat.
7	Q. About -- when you say "a little ways,"	7 Q. -- detail as possible.
8	what do you mean?	8 A. Yeah, as much as I possibly can,
9	A. A couple of rows of seats behind me.	9 somewhat. I don't recall word for word verbatim
10	Q. And are you familiar with Officer Nagy?	10 what he said, but I know he used some derogatory
11	A. Yes.	11 language, and, you know, he had to threaten a man to
12	Q. And how are you familiar with him?	12 put his gloves on, so and so forth. That's just his
13	A. Prior incident before that.	13 regular.
14	Q. How long prior to August 3rd had you had	14 Q. Had you had any previous interaction
15	this incident with Officer Nagy?	15 with Officer Nagy other than that April 16th?
16	A. April 16th.	16 A. No.
17	Q. Can you tell me about that incident, the	17 Q. Now, you said that he was in a booth.
18	April 16th incident?	18 Can you tell me where the booth is located?
19	A. Just going to the yard. He asked for my	19 A. Directly above. When you enter the mess
20	identification card. Showed it to him. He told me	20 hall, it's like a door. It's like me entering in
21	I couldn't go outside because I was a porter. So	21 here, and the booth is directly above the door.
22	told him that I have a constitutional right to a	22 Q. How many people in that booth?
23	hour recreation. He called me a smart ass, used	23 A. One person occupies the booth.
24	derogatory language. He made a couple racial slurs.	24 Q. And on August 3rd, who was occupying
25	He told me he beat such and such out of guys, so and	25 that booth?

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1	Trevor Burns	Trevor Burns
2	A. Officer Nagy.	2 doing that were fighting?
3	Q. And what happened with regard to the	3 A. They weren't fighting. They was already
4	chemicals?	4 handcuffed.
5	A. What happened with regard to the	5 Q. Where were they? Were they still on the
6	chemicals?	6 floor that you told me about being handcuffed or
7	Q. Yeah. You said that he released	7 something else happened?
8	chemicals.	8 A. The last I recalled, they was
9	A. Yeah.	9 handcuffed, and then he immediately released the
10	Q. Where did it come from?	10 gas. Then all my attention went toward finding out
11	A. It was directly behind me.	11 where that gas was coming from.
12	Q. And when did you first become aware that	12 Q. Just so we're clear, the first time you
13	the chemicals had been released?	13 became aware of the gas was because you heard
14	A. He actually dropped it on the officers.	14 something?
15	The officers' station is directly behind us, but I	15 A. You -- the cannisters drop. It was like
16	believe one or two was standing directly under it.	16 one, two, three, four, five, six, if I recall
17	So once that was released or he dispensed the first	17 correctly. You could hear it. You could hear the
18	chemicals and start coming toward the front.	18 cannisters drop, clink, clink, clink.
19	Q. And how did you first become aware of	19 Q. When you say hear them drop, drop
20	it? Was it because of something someone said? Was	20 from --
21	it a smell?	21 A. The ceiling.
22	A. Well, you could hear it, and it was --	22 Q. To the floor or something else or -- as
23	it was coming toward the front, and it eventually	23 they're making their way down?
24	got to where the table I was at.	24 A. As they're making their way --
25	Q. At that point, what were the inmates	25 Q. Well, I'm trying to get an
	Page 72	Page 73
1	Trevor Burns	Trevor Burns
2	understanding.	2 arms and stuff like that.
3	A. No. No. No. I just -- I'm not trying	3 Q. So did you have a physical reaction to
4	to be --	4 the gas?
5	Q. Okay.	5 A. Yeah.
6	A. When they hit the floor, when the	6 Q. When did that happen?
7	cannisters actually hit the floor, that's when I	7 A. Immediately. Once -- once I became
8	heard the sound. And when I looked back and I see a	8 exposed to it.
9	cloud of gas coming towards us.	9 Q. And what was the physical reaction that
10	Q. What color was the gas?	10 you experienced?
11	A. I don't recall the color. Gray smoke.	11 A. My eyes started burning. I was coughing
12	Q. And once that happened, what was your	12 a lot, and my skin, I felt burning sensation and
13	reaction?	13 sharp pain on my skin.
14	A. Scared. I never been in a situation	14 Q. And was there a sequence to which you
15	where someone dropped --	15 felt these reactions or something --
16	Q. Did you get up? Did --	16 A. It just -- those were the reactions. I
17	A. I was trying to get up. I started --	17 can't give you an exact sequence.
18	you know, eventually -- let me back up a little bit.	18 Q. Did it affect your eyes first? Did the
19	Eventually the cloud came by our table,	19 blurring happen, and then you felt the sensation,
20	and it started going more so toward the entrance of	20 the pinning sensation?
21	the mess hall. Actually, I did try, but the officer	21 A. It was like all at one time basically.
22	directed us to sit back down despite, you know,	22 Q. And the other individuals that were
23	coughing and my eyes tearing and stuff like that.	23 around you, were they affected?
24	So we stayed. It felt like pins or something in	24 A. Yeah, everybody.
25	your arms, somebody sticking pins and stuff in your	25 Q. And what was their reaction?

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1	Trevor Burns	Trevor Burns
2	A. I couldn't really -- I wasn't really	2 I don't know for a fact. I wasn't up there with him
3	paying attention to their reaction, but I'm assuming	3 so -- and like you said, in sequence, the first
4	probably the same reaction that I experienced.	4 chemicals that came out, then I believe seconds or
5	Q. So between the time that the -- you	5 within a minute or so, then all -- everything just
6	heard the cannister drop and you saw the gray smoke,	6 came down.
7	how long did you take to feel the reaction, to get a	7 Q. And the next set of gas that came down,
8	physical reaction?	8 was that also grayish or something else?
9	A. Immediately.	9 A. I don't recall exact colors.
10	Q. And then you mentioned someone telling	10 Q. So it started at the back behind you was
11	you to sit down. Who was that person?	11 where the gas came from?
12	A. One of the officers by the door.	12 A. Yes.
13	Q. What was this officer's name?	13 Q. And then did it progressively get closer
14	A. I don't know exactly his name.	14 or something else?
15	Q. Can you describe what he looks like?	15 A. Yes. It progressively got closer to
16	A. Caucasian guy. I don't -- I don't	16 eventually it was upon me.
17	recall.	17 Q. What, if anything, could you see?
18	Q. And then what happened next? After the	18 A. My vision was getting blurry.
19	cannister was dropped, what happened?	19 Q. But was the entire mess hall covered in
20	A. Then he -- excuse me. Then Officer Nagy	20 this gray smoke or something else?
21	pressed the rest of the chemical agent that was	21 A. Yes.
22	inside the tubes.	22 Q. And at some time -- at some point, did
23	Q. How do you know that he pressed it?	23 you get up from where you were sitting?
24	A. ***I know. Obviously he's the one	24 A. After the second -- second
25	that's controlling it, so I'm assuming that he did.	25 dispersement -- or dispensing of the gas, that's
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1	Trevor Burns	Trevor Burns
2	when I got up.	2 A. Yes.
3	Q. What did you do when you got up?	3 Q. So officer Nagy's viewpoint would be
4	A. Just started running to the door.	4 looking behind you?
5	Everybody running, just panic.	5 A. No. You -- actually, depends on where
6	Q. Now, you mentioned a door that you came	6 I'm sitting or which direction. If I'm sitting on
7	through, was that the same door that you went back	7 this side of the table --
8	out?	8 Q. When you say "this side," would that be
9	A. Yes. There is only one door.	9 the right side, left side?
10	Q. At that point, about how many -- prior	10 A. Left side. Okay. If I'm entering the
11	to the chemical being dropped, about how many	11 mess hall, if I'm sitting on that side looking
12	inmates were in the mess hall?	12 toward the food counter, he'll be sitting directly
13	A. Quite a few. I don't -- probably a	13 behind me. However, if I'm on your side, on the
14	couple hundred, if that, or 150, 200.	14 other side, the opposite side, I would be looking
15	Q. About how many officers were in there?	15 directly at him.
16	A. Prior to the gas being dropped? Twenty	16 Q. And with regard to where the incident
17	something, thirty, because they got to respond to	17 was taking place with these two inmates that were
18	the incident that took place.	18 fighting, where was Officer Nagy? Was he in front
19	Q. Now, the booth, you said it's elevated	19 of them, behind them, or something else?
20	above the door?	20 A. Oh, he could see -- from the -- exactly
21	A. Yes.	21 from the view where he's at, with the view where
22	Q. And that door is located at the back of	22 he's stationed at, he can see the entire mess hall
23	the mess hall?	23 and what's going on throughout the entire mess hall
24	A. It's in the front of the mess hall.	24 on both sides of the mess hall. I don't know
25	Q. The front of the mess hall?	25 whether he was in back or front of these

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1	Trevor Burns	1	Trevor Burns
2	individuals.	2	run over somebody?
3	Q. But he could see the entire incident?	3	A. It's possibly a trip or run over
4	A. He could see the entire incident, yes.	4	someone. Could have possibly ran over someone, but
5	Q. So you said you were going out after the	5	in the process of everybody fleeing, it was just the
6	chemicals were dropped?	6	whole bulk of everybody just running out of the mess
7	A. Yeah, I was in the process of fleeing	7	hall.
8	out of the mess hall.	8	Q. And did your body actually come into
9	Q. Were you the only one that was exiting?	9	contact with the ground?
10	A. It was -- everybody was trying -- even	10	A. Yes.
11	the officers were running out.	11	Q. Which part of your body first came into
12	Q. And what happened as you were running	12	contact with the ground?
13	out, if anything?	13	A. Probably my hand.
14	A. Somehow I fell, and I was trampled.	14	Q. Which hand? The left hand?
15	Q. When you say you were trampled, can you	15	A. Yes.
16	describe what happened?	16	Q. And you said that you fell on your left
17	A. In the process of me running out, I was	17	side?
18	overran by other guys. If -- it wasn't just me, it	18	A. I didn't say I fell on my left side. I
19	was some other guys that was -- that fell as well,	19	said I fell on my left hand.
20	but I know when I was running outside the mess hall,	20	Q. So did your left side come into contact
21	I fell on my left hand and my shoulder.	21	with the ground?
22	Q. How did you fall?	22	A. Yeah. When I fell on my left shoulder,
23	A. On my left hand and my shoulder. I	23	yes.
24	fell --	24	Q. And then when you say "trampled," can
25	Q. Did you trip? Did somebody -- did you	25	you tell me what you mean? Did someone actually
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1	Trevor Burns	1	Trevor Burns
2	step on you or something else?	2	ground, did you hear anything? Did you have any
3	A. Yeah. Guys running over, they trying --	3	broken bones or anything from that?
4	everybody's trying to get out of the mess hall, so	4	A. Not that I recall.
5	guys ran -- ran on my head. They were stomping on	5	Q. So you were -- you made it up, right,
6	my head, my back, my legs.	6	from the ground. Then what happened?
7	Q. About how long were you on the ground?	7	A. We proceeded to the C and D yard.
8	A. For a little while, not a long time, but	8	Q. Now, how far away from the mess hall is
9	eventually I got up and ran out to the yard.	9	the C and D yard?
10	Q. Did anyone have to assist you to get up?	10	A. Probably about 15 and -- 20 feet.
11	A. It was a couple of guys. One guy in	11	Q. So that would be a corridor that you had
12	particular, I believe he kind of helped me up a	12	to go through?
13	little bit, pulled me out of a -- it was like a pile	13	A. It's like a squared area. It's not
14	up. He pulled me out of there, and I got up and	14	actually a corridor at the time.
15	eventually ran.	15	Q. About how long is that area?
16	Q. When you were on the ground, what, if	16	A. About 15 feet, 20 feet, if that.
17	anything, did you experience?	17	Q. Now, the doorway to the mess hall that
18	A. My adrenaline was flowing. Shock, pain,	18	you described having to go through, is that a double
19	I had, like, a sharp pain in my back. My wrists	19	door or --
20	was, like, numb at the time. I ain't got no whole	20	A. No, it's a single door.
21	bone. The whole bone is gone.	21	Q. A single door.
22	Q. And the whole bone being gone is from	22	A. Right.
23	the surgery?	23	Q. And about how -- what's the dimensions
24	A. Yes. It was from the surgery in '98.	24	of that doorway?
25	Q. So when you made contact with the	25	A. About eight-by-six, roughly.

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1	Trevor Burns	1	Trevor Burns
2	Q. So now you're through the corridor to C	2	in the yard. How many?
3	and D yard, can you describe what's in this C and D	3	A. It was quite a few officers, and they
4	yard?	4	had some officers in the gun tower as well.
5	A. C and D yard, we call it the dirt yard,	5	Q. What were the names of the officers that
6	because there's a lot of dirt in the yard actually.	6	were in the yard?
7	They have a couple of televisions. They have about	7	A. I don't recall their names.
8	three TVs. They got a shower area, a baseball	8	Q. You mentioned a Lieutenant Tokarz. Are
9	field, and that's basically it.	9	you familiar with him?
10	Q. What's the dimension of that yard?	10	A. Yes, I know who it is.
11	A. The dimension's about four block areas.	11	Q. Had you had any interaction with him
12	Q. When you say "block," are you talking	12	prior to August 3rd?
13	about city blocks?	13	A. I've seen him around the facility.
14	A. About -- yeah, about a city block --	14	Q. How did you know that his name was
15	half of a city block, actually. Make it half of a	15	Lieutenant Tokarz?
16	city block, four different squares.	16	A. Everybody in the jail knows his name.
17	Q. So you get to the C and D yard, what	17	Q. How do they know?
18	happens?	18	A. He's the lieutenant.
19	A. Immediately when we got out there, they	19	Q. Is there something that distinguishes a
20	had a couple of officers out there. We had the	20	lieutenant from an officer?
21	Lieutenant Tokarz, I think that's his name. He's	21	A. They had to wear white shirts, and their
22	standing there, and the guys was coughing. I'm in	22	authority figure's higher than the average officer
23	shock, I'm in pain, hard to breathe. Eventually we	23	there.
24	directed to get on the wall.	24	Q. Was there any other individuals in the
25	Q. Now, you mentioned there were officers	25	yard that were wearing white shirts other than
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1	Trevor Burns	1	Trevor Burns
2	Tokarz?	2	other individuals or they're doing something with
3	A. Possibly.	3	somebody else on the other side, so he's standing
4	Q. Did you see those other individuals?	4	there talking to some of his officers, but he's
5	A. No.	5	looking at everybody who's coming out in the yard.
6	Q. Was there a captain in the yard?	6	Q. Let's just backtrack a little bit about
7	A. No.	7	after you exited the mess hall, was there any gas in
8	Q. So when was the first time that you saw	8	that area that you had to go through to get to the C
9	Lieutenant Tokarz after you entered the yard?	9	and D yard?
10	A. He was standing right there by the ramp.	10	A. Yeah, there was gas in that area.
11	Q. And did Lieutenant Tokarz say anything	11	Q. And then when you exited that area to
12	to you?	12	get into the yard, was there any gas in the yard?
13	A. Did he say anything to me? Directly at	13	A. In the yard? Not that I -- I don't,
14	that time, no.	14	think so.
15	Q. What was he doing when you entered the	15	Q. Where was the last place that you
16	yard?	16	experienced any of the gas?
17	A. He was standing there talking with	17	A. In C and D corridor.
18	another officer. He was looking at everybody coming	18	Q. When you got outside, can you tell me
19	out of the yard -- I mean, excuse me, coming out of	19	what it is, if anything, that you felt?
20	the corridor.	20	A. I was -- I had a lot of difficulty
21	Q. So once you got into the yard, you said	21	breathing. My arm was in extreme pain. My back,
22	something about going and standing someplace.	22	you know, I had grueling back pain. My eyes, I
23	A. Yeah. We had to stand in a different	23	couldn't really see that well, but I was just hoping
24	area, but guys are falling out. They're calling	24	that hopefully I could see somebody and they could
25	responses. Officers in the hallway engaging with	25	just direct me to medical so I could get some

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1	Trevor Burns	Trevor Burns
2	attention.	2 A. The lieutenant was directing other
3	Q. And you said your arm, you had	3 officers to tell us to get on the wall, and then
4	difficulty with your arm. That was your left arm?	4 he's yelling at the guy in the tower, the guy that
5	A. Yes.	5 was pointing the gun at us. I don't know exactly
6	Q. So you got to -- did you go onto the	6 what he was saying at the time though.
7	wall?	7 Q. Did you hear what he was saying?
8	A. I didn't go onto the wall until Tokarz	8 A. I don't know -- no, I didn't hear
9	actually directed -- the officers tell us to get on	9 exactly what he was saying to the guy in the tower
10	the wall.	10 at that time.
11	Q. So when you first got out into the yard,	11 Q. So an officer told you to get on the
12	what did you do?	12 wall?
13	A. I was walking near the phone areas.	13 A. Officer -- Lieutenant -- excuse me,
14	There's, like, some phones directly when you come	14 Lieutenant Tokarz that was directing the officers to
15	out to the yard. So I'm walking to there. I'm	15 tell us to get on the wall. "Tell them to get on
16	trying to stand up right. He's -- Tokarz was	16 wall. Tell them to get on the wall. You, over
17	talking to a officer, and he's directing him certain	17 here." He's directing all the traffic right there.
18	things at that time. I wasn't actually sure what he	18 Q. So he was generally just telling the
19	was doing at that particular moment.	19 officers what to do?
20	Q. So about how long were you in the yard	20 A. He's -- in the process, he was telling
21	before you were directed to the wall?	21 us as well, "Guys get on the wall. You tell them to
22	A. Probably, if that, a minute. If that,	22 get on wall. Get on the wall," so and so forth, and
23	or less than that.	23 he's basically directing everything.
24	Q. Then what was the instruction that you	24 Q. And about that time, how many
25	were given?	25 individuals -- how many inmates were in the yard?
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1	Trevor Burns	Trevor Burns
2	A. At that time, it wasn't that many.	2 the officer tell us to put our hands on the wall,
3	Q. When you say "it wasn't that many" --	3 and so, you know, we cheat a little bit, put our
4	A. It was only a few. We have two --	4 hands this way and just wait until further
5	actually two yards. So they were directing some	5 direction.
6	people to go over to A and B yard. That's the yard	6 Q. So when you say you put your hands on
7	directly across from the yard that I was at, and	7 the wall, I'm not familiar with that.
8	some people were directed to go to the C and D yard.	8 A. I know that.
9	Q. When you say a few, are you talking	9 Q. So you have to explain it, what it is
10	about 50? Are you talking about 10?	10 that you mean.
11	A. At that time, it was way less than 50.	11 A. Some -- it depends, like, if you're
12	It wasn't that many people. You had people going	12 going through a serious search, they'll tell you to
13	down the hallway toward the gym. I believe that's D	13 put your hands high, flat, and they'll spread you
14	block -- excuse me, D-Block corridor. I can't give	14 out. But under these circumstances, they just
15	you approximate of how many people was there. It	15 wanted everybody basically facing the wall. He
16	wasn't that many, though, at the time.	16 directed everybody to, like, put your hands on the
17	Q. Did you get on the wall?	17 wall, and that's basically what we had to do.
18	A. Yeah, they got the guns pointed at us.	18 Q. About how many people was on the wall?
19	Of course I'm going to get on the wall.	19 A. I wasn't paying attention. I was
20	Q. And when you say you got on the wall,	20 worried more so about my health.
21	can you tell me what is it that you did?	21 Q. While you were on the wall when you
22	A. I just stood up against the wall.	22 first got there, what, if anything, were you
23	Q. Were you standing with your back to the	23 experiencing?
24	wall?	24 A. I was in -- for one, I was in shock.
25	A. No. I had -- he tell us -- directing --	25 With respect to the incident, like I said, I never

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1	Trevor Burns	Trevor Burns
2	been in nothing like that. I was in excruciating	2 directing officers what to do, what to say, when to
3	pain. I mean, I never had chemicals on me, then	3 do it, as well as the inmates that was on the wall
4	they didn't give us no medical attention or	4 at the time. I believe he told us to come off the
5	directive to do anything at the time. So I had a	5 wall and go to -- proceed to A and B yard.
6	lot of sharp, stinging pains on my skin, my neck, my	6 Q. Now, you said you were on the wall for
7	eyes. My arm was numb, and there was sharp shooting	7 about an hour. During that time, did you speak to
8	pain up to my elbow. Then my back, you know, it was	8 anyone?
9	a difficult situation thoroughly for me personally	9 A. I know I was yelling at him asking him,
10	at the time.	10 and they telling me to turn around, turn around,
11	Q. Now, you mentioned sharp, shooting pain	11 face the wall in an aggressive manner. And he's
12	in your arms. Does that help you recall whether or	12 looking, and he's "Turn him around, turn him
13	not you were wearing short sleeves or long sleeves	13 around." He referred to me as well. Referred to me
14	that day?	14 and another guy that was, like, a foot away from me.
15	A. No.	15 Q. What do you mean "in an aggressive
16	Q. How long were you on that wall?	16 manner"?
17	A. About an hour, probably more than that.	17 A. Okay. When we initially came out, like
18	Q. And during the time that you were on	18 I said, the lieutenant directed the officers to tell
19	that wall, did these symptoms that you described	19 us to get on the wall. Now, he's standing right
20	change?	20 there. He see everybody that's coming out. He see
21	A. No. They was consistent.	21 the condition everybody's in.
22	Q. And what happened -- or how did you come	22 He tells us, "Get on the wall. Get on
23	off the wall?	23 the wall." So Eventually we get on the wall. Then
24	A. The lieutenant, like I said, he was the	24 he yells at the guy in the tower and he tells the
25	one that was in control of everything. He was	25 officer, "Anyone take their hand off, you take them
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1	Trevor Burns	Trevor Burns
2	down." So this guy in the tower's pointing the AR	2 Q. Now, you were going to tell me about the
3	15 at us. All of this on tape, everything I'm	3 aggressive manner. What do you mean by that term?
4	saying. They were recording the whole incident.	4 A. It's about 15 to 20 to 25 officers
5	Officers out there with a tape recorder, and we came	5 standing behind us. They got their sticks out.
6	out of the door, and there was an officer --	6 And, you know, they pushing -- some guys are being
7	actually two that was in the tower that had the tape	7 pushed up against a wall.
8	recorder that was pointing at everybody that was	8 Q. Were you pushed up against the wall?
9	coming out of the corridor.	9 A. No, I wasn't pushed up against the wall.
10	Q. What are the names of these officers?	10 Q. So when you say that Lieutenant Tokarz
11	A. I don't know their names.	11 was telling people to get on the wall in an
12	Q. Can you give me a description?	12 aggressive manner, what are you referring to?
13	A. Not at this moment. Maybe if I see him	13 A. Aggressive manner?
14	again, I can get his actual name though.	14 Q. Yeah. Are you referring to his tone?
15	Q. And you said they had video cameras?	15 A. His tone. Actually, his tone, and the
16	A. Yeah, they have video cameras in the	16 reaction of the officers that he was directing to
17	yard. They have video cameras in the mess hall, and	17 tell us to do certain actions that he wanted done.
18	had one in the tower, and they had another guy with	18 Q. And what was the action that he directed
19	a hand-held camera as everybody was exiting the	19 at the inmates? What did he tell the inmates to do?
20	corridor going to -- what's that -- the C and D	20 A. He was telling us to get on the wall.
21	yard.	21 But -- I mean, we were on the wall, but we
22	Q. And were these cameras working on that	22 experiencing difficulty breathing, pain. He didn't
23	day?	23 say sit down, you know, everybody sit there,
24	A. Yes, I'm assuming so. I guess so, they	24 whatever. He's telling us to stand up and face the
25	were.	25 wall, put our hands on the wall. Then he's telling

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1	Trevor Burns	Trevor Burns
2	the guy in the tower with the gun pointed at us that	2 Q. What's not too far away?
3	if we take our hands off the wall, take them down.	3 A. Couple feet, probably like five, six
4	So obviously that's a sign of aggression, you know,	4 feet, like that.
5	for someone that's just going to eat breakfast.	5 Q. And what was going on at the time you
6	Q. And how do you know that Lieutenant	6 were saying this to the officer that was standing
7	Tokarz knew what the individuals were experiencing?	7 behind you?
8	A. How did I know?	8 A. You have different officers standing
9	Q. How do you know that?	9 behind other individuals telling guys to face the
10	A. I can't know it personally. I mean, to	10 wall. They have a few nurses that came that took a
11	be honest, I don't know personally what he knew as	11 guy to -- it was so much that was going on. It's
12	far as -- but I know certain things were brought to	12 too much to try to --
13	his attention that he could have probably took a	13 Q. And were there still inmates coming out
14	different course of action.	14 from the mess hall?
15	Q. What things were brought to his	15 A. I'm in the yard. I can't see the --
16	attention?	16 couldn't see.
17	A. The fact that guys were trying to tell	17 Q. So during that time that you were on the
18	him, such as myself, that, yo, I wanted to see a	18 wall, what exactly did you see?
19	nurse.	19 A. As far as what?
20	Q. Did you speak directly to Lieutenant	20 Q. With regard to what was going on with
21	Tokarz?	21 the other inmates and with the officers.
22	A. I didn't -- put it like I didn't speak	22 A. As I stated, just the officers behind
23	directly to him, but the officers behind me that had	23 us. Guy -- like I said, guys were -- some guys were
24	the stick out, I'm saying I want to see a nurse.	24 falling out, everybody had to face the wall, and
25	He's standing not too far away from me.	25 that was basically what I saw to a certain degree.
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1	Trevor Burns	Trevor Burns
2	Q. At some point you came to leave the	2 wear into the shower?
3	wall, and you said you were directed to the A and B	3 A. Nothing but my boxers.
4	yard?	4 Q. You got into the shower, and you took a
5	A. Yes.	5 shower, correct?
6	Q. How did you get from C and D to A and B?	6 A. No. I just washed my face and my arms.
7	A. The lieutenant told us to walk through a	7 That's what he was telling us to do, just hurry up,
8	corridor. It's like -- roughly like five -- between	8 other guys got to get in, and then line up over
9	eight and nine feet of space in between, like a	9 here.
10	vestibule. You have one yard door, then another	10 Q. Now, you mentioned feeling some kind of
11	yard door, and you walk right through, walk down	11 sensations on your arms. Did you feel them anywhere
12	that ramp and you go directly to the yard.	12 else?
13	Q. What happened when you got to the A and	13 A. Yeah, my back.
14	B yard?	14 Q. And the back, was that the same thing
15	A. Immediately when we got there, they told	15 that you were feeling in your arms?
16	us to strip down, take our clothes off, and line up	16 A. Not exactly same thing, but it was an
17	and walk towards the shower.	17 agonizing pain.
18	Q. Did you go into the shower?	18 Q. When you say "agonizing," what do you
19	A. Yeah. Yes, I went into the shower.	19 mean?
20	Q. And after you came out of the shower,	20 A. Excruciating.
21	what happened?	21 Q. What do you mean by that?
22	A. Told us to line up inside the dirt,	22 A. Sharp pain up my back, pain, pounding
23	right in front of the yard -- I mean, right in front	23 pain.
24	of the block area.	24 Q. And during the time frame that you --
25	Q. And just before we move on, what did you	25 from the time that you entered the C-D yard to the

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1	Trevor Burns	Trevor Burns
2	block.	2 A. I take a break? I don't -- I don't
3	Q. So how did you get from the entrance of	3 recall.
4	B-Block to your cell?	4 Q. You can take a break.
5	A. Walk directly up the stairs.	5 (Recess taken at 1:05 p.m. and resumed
6	Q. And about how long did that take you?	6 at 1:10 p.m.)
7	A. Just a couple of seconds, one flight of	7 Q. When we left off, you had arrived at
8	steps.	8 B-Block, and you were going to your cell. Can you
9	Q. Were there any inmates around?	9 tell me what time that was?
10	A. No. Everybody is locked in.	10 A. I don't know the exact time.
11	Q. What were you wearing at that time?	11 Q. Was it still morning?
12	A. I don't recall.	12 A. Probably the afternoon or morning.
13	Q. Did you still have your underwear on?	13 Q. And you said nurses came around; can you
14	A. At what time? As far as what?	14 tell me who?
15	Q. When you were all going from the A-B	15 A. Oh, you're talking about the time when I
16	yard to B-Block, and then from the B-Block to your	16 was already in my cell?
17	cell?	17 Q. Yes.
18	A. All we had was -- that's it -- boxers.	18 A. Oh, yeah, that was probably in the
19	That's it. Everybody had boxers on. All our	19 afternoon.
20	clothes was in one big heap.	20 Q. And the nurse came around to the block?
21	Q. Were you barefoot, or were you wearing	21 A. Yes, she was now on the flats.
22	something? Slippers? Shoes? Socks?	22 Q. What was the name of the nurse?
23	A. ***I don't know.	23 A. I don't know her name.
24	Q. So about what time did you arrive at	24 Q. Did you speak to the nurse?
25	your cell?	25 A. Yes. Everybody that was in the mess
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1	Trevor Burns	Trevor Burns
2	hall that wanted to make a complaint or whatever, we	2 stuff off, the residue and stuff like that on my
3	had to go to the nurse.	3 arms but --
4	Q. You said she was in the flats, which	4 Q. When did you try to do that? After
5	means the first level of --	5 speaking to the nurse, before speaking to the nurse,
6	A. The first level of -- there's three	6 or some time --
7	levels. I was on the second level. She was on the	7 A. Before and after.
8	first level.	8 Q. Did that help?
9	Q. What, if anything, did you report to	9 A. To a certain degree, yes.
10	her?	10 Q. Can you tell me to what degree?
11	A. I was explaining everything that I was	11 A. Small, minor. It didn't really have a
12	going through, but she said she wasn't concerned	12 significant effect on what happens.
13	with that. She wanted to know the effects of the	13 Q. Where did you get the water from? In
14	gas. So, you know, I explained that to her, you	14 your cell?
15	know, my eyes, told her my arms, stuff like that.	15 A. Yeah, they have sinks in the cell.
16	Told me drink water, put some cold towels on your	16 Q. After you saw the nurse, what happened
17	eyes, you know, and that's it.	17 next? What did you do next?
18	Q. And did you drink water?	18 A. I went back upstairs and locked back in
19	A. Yes.	19 the cell.
20	Q. Did you put some cold towels on your	20 Q. And did you have an interaction with
21	eyes?	21 anyone else that day other than the nurse?
22	A. Yeah, later on. Yes.	22 A. That entire day?
23	Q. Did you do anything else for yourself	23 Q. Yeah.
24	during that day?	24 A. A couple officers later on.
25	A. Yeah. I was trying to wash some of the	25 Q. Around what time did you have that

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1	Trevor Burns	Trevor Burns
2	interaction with the officers?	2 A. Maybe it was like reddish.
3	A. 3:00, 3:30, something like that.	3 Q. Had you seen this officer in that
4	Q. Can you describe the interaction you had	4 company before?
5	with these officers?	5 A. No, he's not the steady -- he wasn't
6	A. No. I was -- before -- actually before	6 steady over there.
7	that took place, I had, like, dizzy spells, and I	7 Q. And you said that he witnessed you fall
8	was vomiting, and I fell unconscious, and the	8 unconscious?
9	officer was right there. He just came over to my	9 A. He didn't actually witness me fall. He
10	cell, and I got up, and he called the other officer.	10 seen me when I was on the floor and stuff like that.
11	Q. Which officer was this that you're	11 Q. And you were on the floor in your cell
12	referring to that witnessed you being unconscious?	12 or someplace else?
13	A. He was also in the company that was	13 A. Inside the cell.
14	actually -- I don't know his name.	14 Q. About how long after you had arrived on
15	Q. Can you describe this officer?	15 B-Block did you become unconscious?
16	A. Heavyset guy.	16 A. I know I went to sleep after I washed up
17	Q. What race?	17 and stuff like that. I went to sleep. I woke up, I
18	A. I believe he was Caucasian guy.	18 was having dizzy spells, my eyes was hurting,
19	Q. About how tall?	19 pounding headaches. I don't remember everything
20	A. I don't recall his height.	20 that happened during the process of me going out,
21	Q. Facial features?	21 but I know he came, he was there. There was another
22	A. No hair.	22 prisoner there standing there at the time as well.
23	Q. Did he have any beard, any --	23 That was after -- was it before or after? I think
24	A. No beard.	24 it was after the officer came and he called Shaw.
25	Q. What about the color of his hair?	25 Q. And for how long were you unconscious
Page 108		Page 109
1	Trevor Burns	Trevor Burns
2	for?	2 Q. Did you feel anything before you lost
3	A. I don't remember. I don't recall the	3 consciousness?
4	amount of time.	4 A. Yes, I was having pounding headaches. I
5	Q. Was it an hour? Fifteen minutes?	5 felt dizzy, real dizzy, and next thing I know, I
6	A. Could have been that long, because it's	6 woke up, and he goes, "Hey, guy, you all right?"
7	like doing the mail run.	7 Q. Where were you at the time he said that?
8	Q. You said the mail run?	8 Were you on the floor, on your bed, or someplace
9	A. Yeah.	9 else?
10	Q. What time does the mail run usually	10 A. I believe I was on the floor. Between
11	occur?	11 the floor and my bed.
12	A. Between 3:00, 3:30, 4:00, around that	12 Q. And, again, you don't recall the name of
13	time.	13 this individual?
14	Q. And the time you fell unconscious, were	14 A. No. This is like a year and some change
15	you standing, sitting, or something else?	15 ago.
16	A. I was actually on my bed sitting down,	16 Q. And the other inmate, what was his name?
17	and I woke up, and that's when I started	17 A. Spanish guy, Latino guy. Jay, I think,
18	experiencing these pains, and I was throwing up and	18 something like that. I don't know. He's younger
19	anything else, and I went out.	19 than me. I know him as Jay.
20	Q. You say you went out, can you describe	20 Q. Was he housed on B-Block also?
21	what happened?	21 A. Yeah, we on the same company.
22	A. All I know is -- all I recall is I woke	22 Q. Where was his cell located with regard
23	up. I can't give you a descriptive detail of	23 to yours?
24	everything with respect to that, because some stuff	24 A. He's in the back, all the way in the
25	I don't remember.	25 back.

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1	Trevor Burns	1	Trevor Burns
2	Q. And at the time he witnessed -- how do	2	him?
3	you know that he witnessed anything that happened	3	A. He's -- he was the two-man. The officer
4	with regard to you?	4	called him and told him to call a medical response
5	A. At the -- okay. Let me back up a bit.	5	over the walkie-talkie, and he basically refused to
6	Now, when the officer was asking me what was wrong,	6	do so.
7	I believe they were doing the phones at the time,	7	Q. What do you mean he refused to do so?
8	and he was one of the guys that was supposedly on	8	A. He wouldn't do it. He didn't do it. He
9	the phone. So he was right there when the officer	9	said it's not an emergency.
10	was trying to get me up and make sure everything was	10	Q. How do you know that he said that?
11	okay.	11	A. I'm sitting right there when he came up
12	Q. Did he say anything to you, this inmate?	12	on company. Now I'm in the first cell. It's a
13	A. No, not at all.	13	bubble. We call it a bubble. It's like a cage
14	Q. Did you say anything to Jay?	14	where the officer's stationed at. It's how they
15	A. No.	15	open and close the cells, stuff like that. About
16	Q. Now, you mentioned the officer asked you	16	four, five feet away from that you have staircase.
17	how you were doing, correct?	17	So I'm in the first cell as a porter. I can hear
18	A. Yes.	18	and see mostly everything right there.
19	Q. What was your response?	19	Q. And where was Shaw at the time that
20	A. I don't recall that I just said anything	20	this --
21	to him.	21	A. Right there in front of my cell.
22	Q. Now, you mentioned another individual,	22	Q. When you say "right there," he was --
23	Shaw?	23	A. Directly in front of my cell.
24	A. Yes.	24	Q. And where was the other officer?
25	Q. When did you have an interaction with	25	A. They both standing there directly in
	Page 112		Page 113
1	Trevor Burns	1	Trevor Burns
2	front of my cell.	2	calls down verbally?
3	Q. Why didn't the other officer make the	3	A. Yes.
4	call?	4	Q. Call for medical?
5	A. Because he's posted on my company. He	5	A. Yeah.
6	can't leave his post. Now, the B man is the officer	6	Q. Did he say what the reason for -- why
7	that's downstairs, and he could contact him and tell	7	you needed medical?
8	him to make the call, walkie-talkie call, or	8	A. I believe it be kind of obvious. I'm
9	whatever.	9	like on the floor.
10	Q. So from upstairs that officer called	10	Q. But could Shaw see that you were on the
11	downstairs to the B man which would be Shaw?	11	floor?
12	A. Yeah.	12	A. He's standing directly -- he seen the
13	Q. And where was Shaw? Was Shaw in the	13	whole situation.
14	bubble? Was he --	14	Q. So he calls down verbally?
15	A. No. There's an eight man that's in the	15	A. Yes.
16	bubble. There's another officer, which is the B	16	Q. Not using the walkie-talkie, correct?
17	man, that's the two man who sits behind like a	17	A. No -- no, he didn't use the
18	podium, and he sits right there. So if he calls	18	walkie-talkie. I don't know if he actually had one.
19	down, "Shaw come upstairs," I can basically say it	19	Q. Okay. I thought you mentioned something
20	that loud because he understands and come right up,	20	about a walkie-talkie. Where did that come in?
21	'cause he's so close.	21	A. He told Shaw to call for emergency
22	Q. So Shaw was on flats, what you told me	22	response on the walkie-talkie. Obviously I believe
23	before, the first floor?	23	that Shaw was the one that was in possession of the
24	A. Yes.	24	walkie-talkie as opposed to that particular officer.
25	Q. And from the second floor, that officer	25	Because they have different officers that come

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1	Trevor Burns	1	Trevor Burns
2	through. The mail go around and the chow go around.	2	referring to?
3	So it varies at time.	3	A. Me.
4	Every officer on the deck does not have	4	Q. Had he used that before to describe you?
5	a walkie-talkie. A medical response or a fight	5	A. No.
6	happens, certain officers are equipped with that	6	Q. You heard him make that comment? You
7	particular thing, so I believe Shaw at the time was	7	heard Shaw make the comment --
8	equipped with it.	8	A. Yes.
9	Q. And what was Shaw's response to the	9	Q. -- about the big guy?
10	other officer's request?	10	A. Yes.
11	A. He wouldn't do it.	11	Q. And what, if anything, did he do next?
12	Q. Did he say something verbally to	12	A. He went downstairs, and he told the
13	indicate --	13	other officer, and I kept asking, you know, "I need
14	A. ***medical. He's the jokester.	14	to see somebody. I need to see somebody." He told
15	Q. Had you had any interaction with Shaw	15	the other officers that he wouldn't see me.
16	prior to that day?	16	Q. Did Shaw make any kind of contact with
17	A. Yes.	17	medical?
18	Q. Can you describe those other	18	A. No, I didn't go nowhere, so obviously
19	interactions?	19	not that day.
20	A. I was actually the porter on the	20	Q. Did he use the telephone to make the
21	company, so we had to interact. He just jokes a	21	call to medical?
22	lot, disrespectful, say -- say certain things, but	22	A. He's downstairs. I don't know. I don't
23	other than that, he's not like the physically	23	think so.
24	abusive-type officer. He's not like that.	24	Q. But he then came back and said does he
25	Q. So when you say big guy, what was he	25	need it the next day, correct?
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1	Trevor Burns	1	Trevor Burns
2	A. He didn't say that -- he told the other	2	regard to the call to medical? How long would they
3	officer, put down for emergency sick call tomorrow	3	take to respond?
4	and see you tomorrow.	4	A. In a matter of minutes, if that.
5	Q. And you heard him say this to the other	5	Q. What's the process for requesting
6	officer?	6	medical attention?
7	A. Obviously it was him, because the	7	A. The normal process, as far as medical
8	officer's the one that conveyed the message to me.	8	sick call medical attention is you fill out a slip,
9	Q. How long did that interaction take from	9	name, cell location, and you give a description of
10	where the other officer said to Shaw make a call on	10	the incident or the problem that you have or that
11	the walkie-talkie to medical, and then when you got	11	you're feeling. They take the slip. They pull your
12	the response that put down for emergency call	12	medical records, and they call you the following
13	tomorrow?	13	day.
14	A. Less than -- probably about an hour,	14	Now, with respect to emergency sick
15	less than an hour or hour or so.	15	call, if it's an emergency, what happens is they
16	Q. Now, what does the term "emergency sick	16	notify them over the walkie-talkie and then you're
17	call" mean?	17	immediately seen that particular day.
18	A. The term emergency sick call is used for	18	Q. Now, the walkie-talkie, who would that
19	emergency situations. You know, if the doctor	19	connect to? Would they connect you directly to
20	considers it an emergency, if it's something that's	20	medical or to another officer?
21	significant, going through some type of problem,	21	A. I don't know. I don't know the process
22	then you put down for the emergency sick call.	22	with that. That's like in-house stuff, security. I
23	Otherwise, they'll let you put down for regular sick	23	don't know.
24	call which is the following day. So --	24	Q. Did you see medical again on August 3rd?
25	Q. Now, what was your expectation with	25	A. No.

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1	Trevor Burns	1	Trevor Burns
2	Q. Do you know why Nagy dropped this gas in	2	violent guy.
3	the mess hall?	3	A. No, they don't think. They know. He
4	A. Just to do it.	4	expresses that on a regular basis. It's something
5	Q. What do you mean "just to do it"?	5	that he does routinely.
6	A. That's just how he is. That's just the	6	Q. What's the basis for your information
7	type of person that he is.	7	about it?
8	Q. How do you know that's the type of	8	A. Me personally witnessing certain
9	person that he is?	9	incidents and things that took place throughout the
10	A. Everybody in the whole facility know	10	course of me being here, and things go around
11	what type of person he is.	11	amongst prisoners and inmates, quote-unquote, about
12	Q. And what type of person is that?	12	certain officers that's the most violent officers in
13	A. He's a violent guy. It's just as simple	13	the facility. He's one of them.
14	as that. Just does what he do.	14	Q. Let's go through those. You said there
15	Q. I'm trying to get an understanding of	15	were certain things that you witnessed. Can you
16	what that means.	16	tell me what they were?
17	A. He abuses his authority. He's very	17	A. Just regular stuff, when guy's on the
18	disrespectful. He's a violent guy. He's been in	18	wall, they might slap them, "Get out of here," "Come
19	most of the incidents.	19	outside today," stuff like that.
20	Q. And, again, you mentioned that other	20	Q. How often did you witness that?
21	inmates think this. How do you know that?	21	A. Not often, but a certain amount of time.
22	A. How do I know that?	22	Q. How -- when did you witness that?
23	Q. Yeah.	23	A. I don't recall exact date. I know it
24	A. As far as what?	24	was before April 16th when I filed my initial
25	Q. That other inmates think that he's a	25	grievance.
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1	Trevor Burns	1	Trevor Burns
2	Q. And about how many times before	2	Q. You said that was in the A-Block?
3	April 16th did you witness that?	3	A. Yeah, A-Block.
4	A. I just stated one time that I just	4	Q. And what was the circumstances
5	stated a little while ago, but a couple of incidents	5	surrounding that incident?
6	that took place or things that you probably heard --	6	A. I don't know the circumstances of that.
7	well, I heard specifically.	7	Q. What posts did Nagy hold back in 2015?
8	Q. Who was involved with those incidents?	8	A. What?
9	A. He was.	9	Q. Posts. Like did he have a regular job?
10	Q. Anyone else that you can identify?	10	A. I think he was an A-Block officer but he
11	A. Huh?	11	worked in the yard as well.
12	Q. Anyone else that you can identify?	12	Q. And these incidents that you said you
13	A. No.	13	witnessed, where did they take place? Was it in the
14	Q. Or names of the inmates that were	14	yard, the mess hall?
15	involved in those incidents?	15	A. Some in the mess hall, the yard,
16	A. No. I know really after I filed my	16	probably inside the block. I know the last incident
17	grievance on the 16th of April, he was accused of	17	I referred to about him being accused, Nagy being
18	viciously beating one guy up in A-Block.	18	accused of using excessive force or some type of
19	Q. What's the name of that guy?	19	force on an individual, it was in A-Block.
20	A. I don't know his exact name. Latino	20	Q. What happened as a result of that?
21	guy.	21	A. I don't know, because you don't want to
22	Q. When you say afterwards, can you tell me	22	give me the information.
23	a date?	23	Q. Did that incident get reported to
24	A. I think within a matter of two or three	24	someone?
25	days, if that.	25	A. I believe it was reported, yes.

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1	Trevor Burns		Trevor Burns
2	Q. What's the basis for your belief?		A. Oh, okay. Not personally, but I wrote
3	A. Just probably rumors going around the		complaints about him to other different agencies.
4	yard. The guy's mother and family contacted		Q. What agencies did you write to?
5	inspector general and filed grievances and		A. Governor's office, New York State
6	complaints about the incident.		Corrections, inspector general, FBI, prison legal
7	Q. Have you seen a copy of the grievance or		services, various different people I wrote.
8	complaints?		Q. When did you make these complaints?
9	A. No. You're not privy to that. They got		A. Simultaneously when we filed the
10	that somewhere else.		grievance, the initial grievance that I filed
11	Q. Have you spoken to the individual that		against him on April 16th, 2015.
12	was involved in that incident?		Q. I'm going to ask that you provide me
13	A. No. He's beat up in the box somewhere.		with a copy with any of those complaints.
14	Q. Have you spoken to anyone about Nagy?		A. Okay. I will try to retrieve it, but I
15	A. Except for the complaint, family members		actually wrote letters to them, but they haven't
16	and stuff like that and make sure there was no type		responded. So when I do get out, I'll forward you a
17	of retaliation ensued.		copy of it.
18	Q. When you say "complaint," are you		Q. So you didn't keep a copy of anything
19	referring to the lawsuit that you filed?		that you wrote and sent out to these individuals?
20	A. No, not just the lawsuit.		A. I have some, but some just like through
21	Q. What else did you file with regard to --		the process of me moving, and I lose a lot of
22	or what other complaints are you referring to?		information and documents. Plus they see your cell
23	A. No. You --		is cluttered, and they just have a reduction of
24	Q. I just want to know if you have		property so they say you don't have active legal
25	discussed Officer Nagy with anyone else.		work, they tell you to get rid of it.
		Page 128	Page 129
1	Trevor Burns		Trevor Burns
2	Q. I'm going to, you know, renew my request		having difficulty throughout the entire day as a
3	that --		result of the stuff -- you know, the injuries I
4	A. Okay.		sustained and things that I went through, but other
5	Q. -- you provide us with whatever		than that, I can't specifically detail the
6	complaints or letters you have with regard to any of		difficulty that I was going through or was not going
7	the individuals that are named in this complaint and		through.
8	any of the allegations regarding --		Q. Did you experience any pain while you
9	A. All right.		were sleeping?
10	Q. -- the defendants.		A. If I'm sleeping, obviously I can't
11	Now, what time did you go to sleep that		experience pain.
12	night?		Q. Well, did you have to wake up? Did you
13	A. I don't recall.		wake up during that night because you were
14	Q. What time did you wake up on August 4th?		experiencing any kind of pain?
15	A. Sometime early morning. I don't know		A. It's possible, but I don't actually
16	the exact time.		recall it.
17	Q. And from the time that you went to sleep		Q. Did you go to breakfast the next
18	on August 3rd until the time you woke up August 4th,		morning?
19	what, if anything, happened?		A. No.
20	A. I don't recall exactly what happened.		Q. When was the next time that you ate on
21	Q. Did you have any difficulty sleeping		April 4th?
22	that night?		A. In the morning, I believe.
23	A. Most likely, yes.		Q. What did you eat that morning?
24	Q. What's the basis for your answer?		A. I don't recall what I ate.
25	A. I don't remember per se. I know I was		Q. Did you go to the mess hall on

	Page 150		Page 151
1	Trevor Burns		Trevor Burns
2	I actually worked in the hospital for	2	Q. But what kind of physical aliments do
3	some -- I worked in physical therapy. I worked down	3	you attribute to occurring from the August '15 --
4	there for like three years, and I worked in the mess	4	A. In totality or just --
5	hall for some time. This is before the incident	5	Q. In totality.
6	took place. So I worked in the hospital, physical	6	A. Go over it again. I had my back. I had
7	therapy. I worked in the mess hall. Then I worked	7	my wrists. My vision, it goes in and out, sometimes
8	in commissary and I was a porter since I've been	8	it's really blurry. Pounding -- I still continue to
9	there.	9	have pounding headaches. I don't even know if I had
10	Q. And the other jobs that you just	10	a concussion. They never did a CAT scan or anything
11	mentioned, those all took place previously to August	11	like that to determine the full extent of what
12	2015?	12	happened, why, you know, I fall out -- why I fell
13	A. Yes.	13	out in particular.
14	Q. So since August of 2015, you've just	14	Q. When you saw the doctor immediately
15	been a porter and worked in the commissary?	15	after the incident on August 3rd, did you tell them
16	A. Yes.	16	about the loss of consciousness?
17	Q. Now, other than what you've told me	17	A. Yes.
18	about, are there any other physical injuries that	18	Q. What was the response?
19	you sustained from the incident on August 3rd of	19	A. Nothing.
20	2015?	20	Q. Now, we've been talking about your back.
21	A. Possibly, but I have to consult my	21	Which part of your back do you have complaints
22	doctor and find out. I can't, like, give you a	22	about?
23	direct answer with respect to that aside from what I	23	A. My lower back, mid area.
24	explained, but I don't know what any diagnosis would	24	Q. And, again, we're talking about the left
25	entail, so I can't give you that.	25	wrist?
	Page 152		Page 153
1	Trevor Burns		Trevor Burns
2	A. Yes.	2	Q. Where were those bruises?
3	Q. And the blurry vision is both eyes?	3	A. My body, stuff like that.
4	A. Yes.	4	Q. When you say your body, you're
5	Q. Have you seen an eye doctor?	5	indicating --
6	A. Someone. I don't know if he's an actual	6	A. My back, my legs, the side of my head.
7	eye doctor. I don't know who he was.	7	Q. Did you actually see these bruise?
8	Q. The person that gave you your glasses,	8	A. Yes, looked in the mirror and seen them.
9	when was the last time you saw them?	9	Q. About what size was the bruises on your
10	A. I seen him one time. I don't remember	10	back?
11	the exact date I seen him, but some time when he	11	A. I couldn't see my back. The front.
12	gave me the glasses, when I purchased them.	12	Q. What about the bruises on your head,
13	Q. Are there any other conditions that you	13	what were the size of those?
14	attribute to the August 3rd, 2015, incident?	14	A. I don't know the exact size.
15	A. Aside from what I explained already? I	15	Q. And the bruises that was on the body?
16	don't know yet. It could be future injuries or I'm	16	A. I can't recall exact sizes.
17	not absolutely sure.	17	Q. Did those bruises heal?
18	Q. After the August 3rd, 2015, incident,	18	A. Yes.
19	were you bleeding from anywhere?	19	Q. And how long did it take for them to
20	A. I don't recall.	20	heal?
21	Q. Did you have any cuts on you after	21	A. I don't recall the time frame.
22	August 3rd, 2015, that incident?	22	Q. Was it one week, two weeks, a month, a
23	A. Not that I recall.	23	year, something else?
24	Q. Did you have any bruises?	24	A. I don't -- I don't recall exact time
25	A. Aside from when I was being trampled?	25	frame. I know it wasn't a year, obviously, but

		Page 154	Page 155
1	Trevor Burns		Trevor Burns
2	possibly a week or two.		When you say "years," two years, three
3	Q. And did you show these bruises to the	years?	
4	doctor when you saw him immediately after the	A. Probably like ten, eleven years before	
5	incident?	that.	
6	A. Possibly so.	Q. How did you injure the back then?	
7	Q. And what, if anything, did that doctor	A. I don't remember exactly cause of my	
8	do for you?	injury.	
9	A. Nothing.	Q. Did you seek medical attention at that	
10	Q. Did you get any kind of ointments, any	time?	
11	kind of --	A. I believe so, yes.	
12	A. I believe so. I received a couple	Q. And where were you at that time? Were	
13	ointments, but I don't remember the exact name of	you at Green Haven or someplace else?	
14	the prescription or the ointment I received, but I	A. Someplace else. I don't remember where	
15	know I received some type of an ointment.	I was.	
16	Q. Were you ever taken to a outside --	Q. What was the diagnosis of what had	
17	sorry.	happened to your back?	
18	Were you taken to an outside hospital	A. I don't recall.	
19	for any of these injuries?	Q. Did that injury heal?	
20	A. No.	A. I believe so.	
21	Q. And previously to August 3rd of 2015,	Q. What's the basis for your belief?	
22	had you ever sustained an injury to your lower back?	A. It wasn't hurting as bad.	
23	A. I think so, yes.	Q. Does that mean that you still experience	
24	Q. When?	some kind of pain?	
25	A. Years before. Before the incident.	A. Not from that incident ten years ago.	
		Page 156	Page 157
1	Trevor Burns		Trevor Burns
2	Q. Just so I understand, you don't recall	A. I don't know the exact year.	
3	how you injured your back ten years ago?	Q. Was it ten years before, five years	
4	A. No.	before August 15th -- August 2015?	
5	Q. Was it involving a use of force, a	A. It was before August 3rd, 2015. I can't	
6	fight, an altercation with another inmate?	give you an exact year or exact date. I don't	
7	A. Probably a use of force. I don't know.	recall, unless I'm able to, like, see my records and	
8	I'm not sure.	I can say, well, it happens on this day.	
9	Q. And you mentioned that you had surgery	Q. And what precipitated those headaches?	
10	on your left wrist, but since the surgery but before	Like what caused them?	
11	the August 3rd incident, had you sustained any other	A. I got beat up by the officers.	
12	injuries to that wrist?	Q. When was that?	
13	A. Minor pain.	A. It was upstate, one of these facilities.	
14	Q. You mentioned problems with your eyes.	Q. When were you at -- upstate? When were	
15	Previous to August 3rd, had you experienced any kind	you at upstate's facility?	
16	of blurred vision?	A. I forgot what year that was.	
17	A. No, not that I recall.	Q. How would you classify the headache you	
18	Q. And you mentioned that you have	experienced then compared to what you experience	
19	headaches. Previous to August 2015, had you had any	since August of 2015?	
20	problems with migraines or any kind of --	A. It's -- they're a little different.	
21	A. I've had headaches back then.	Like a lot of stuff -- lately I've been forgetting a	
22	Q. How frequently would you have headaches	lot of stuff. I don't know. Sometimes I just --	
23	back then?	it's a little different now. I'll be sitting in the	
24	A. I can't give you an exact time frame.	cell, and I won't recall a lot of stuff that took	
25	Q. When did the headaches start?	place beforehand.	

		Page 158	Page 159
1	Trevor Burns		
2	Q. What do you mean?		
3	A. No, I'll be sitting in the cell. I may		
4	be writing, and then I'll just like blank out, zone		
5	out, then I just forget it. It will be different		
6	times. I don't know what it is. But it's kind of		
7	like -- it's a lot different.		
8	Q. Have you sought medical attention for		
9	that?		
10	A. Yeah, but they not even -- they not		
11	going do nothing, so I ask for the treatment, but		
12	it's a waste of time.		
13	Q. What did you ask them for? What did you		
14	ask for?		
15	A. I asked to be seen or at least seen by a		
16	doctor, you know, express certain things that I was		
17	going through or -- but I guess if you're not beat		
18	up, stabbed up, excuse me, you know, terminology,		
19	then they're not going to really treat you. You		
20	just got to deal with it. That's just the way it		
21	is. That's the way life is.		
22	Q. Had you specifically expressed that you		
23	were losing memory, that you were suffering from		
24	some kind of memory loss?		
25	A. I told Dr. Pagone about that. He wasn't		
		Page 160	Page 161
1	Trevor Burns		
2	with them.		
3	Q. Now, were you involved in the fight that		
4	was occurring?		
5	A. Absolutely not.		
6	Q. Were you the subject of the gas being		
7	released?		
8	A. Was I the subject of the gas being		
9	released?		
10	Q. Yeah. Was it because you were involved		
11	in that?		
12	A. No, absolutely not.		
13	Q. And do you know what, you know,		
14	precipitated Nagy releasing that gas?		
15	A. Just being who he is. That's what he		
16	does.		
17	Q. What was Nagy doing immediately before		
18	he released the gas?		
19	A. What was he doing?		
20	Q. Yes.		
21	A. Obviously observing the incident that		
22	took place. That's his job. Anything that takes		
23	place that's going on in the mess hall in and he's		
24	in that particular booth, that's his job. He		
25	observes everything, everything that took place.		

	Page 162	Page 163
1	Trevor Burns	Trevor Burns
2	appetite changed?	2 A. Yes.
3	A. Just don't want to eat no more.	3 Q. And you're not sure how you lost -- over
4	Stressed out. Too much stress.	4 what period of time you lost that weight?
5	Q. How much weight did you lose?	5 A. No.
6	A. I don't know how many pounds. I lost a	6 Q. Now, you said that your lost appetite,
7	couple of pounds though. Quite a few actually.	7 just didn't feel like eating. Is that certain meals
8	Q. When you say "quite a few," that's how	8 or something else?
9	much?	9 A. No, it was the stress. I didn't want to
10	A. I was 240 or 250 at the time, and I went	10 go to the mess hall. Sometimes I didn't have food
11	down to 219 or 220.	11 in my cell, if I didn't, you know, have money or if
12	Q. And what was the period of time that you	12 my wife or family didn't send me money to purchase
13	lost this weight?	13 stuff from the commissary. I'd rather stay in the
14	A. I can't give you exact date but I --	14 cell as opposed to going to the mess hall and
15	Q. Did you lose the weight over a period of	15 possibly having more gas dropped.
16	six months? Over a year?	16 Q. You said you never experienced the gas
17	A. I can't give you an exact date, a year,	17 being dropped before, correct?
18	six months, I can't.	18 A. Yes.
19	Q. Did you lose the weight every day, every	19 Q. Since then, have you had any experience
20	month, every week, or at what point did you reach	20 with gas being dropped?
21	the current weight you are now?	21 A. No.
22	A. I can't give you -- I can tell you when	22 Q. Are you aware of gas being dropped again
23	I -- well, I can't recall.	23 since 2015?
24	Q. So you said you went from about 240	24 A. In this facility?
25	something to 219, so approximately 20, 25 pounds?	25 Q. In this facility.
	Page 164	Page 165
1	Trevor Burns	Trevor Burns
2	A. Never, that I know of.	2 mess hall to the inmates fighting verbally?
3	Q. Now, you mentioned there were two	3 A. No, not that I'm aware of.
4	inmates fighting in the mess hall. Was there any	4 Q. So the inmates weren't shouting,
5	other kind of altercation in the mess hall on August	5 egging -- let me just rephrase that.
6	3rd, 2015?	6 Were the other inmates that were in the
7	A. No.	7 mess hall saying anything in response to the inmates
8	Q. You're only aware of the two inmates	8 that were fighting?
9	fighting?	9 A. No.
10	A. That's it. There were so many	10 Q. Were they shouting?
11	officers -- all right. Let me back up a little.	11 A. No, not that I recall.
12	Give you a quick explanation of something.	12 Q. Were they trying to encourage those two
13	About 40 prisoners or inmates are being	13 inmates to continue fighting?
14	supervised by two officers. So there were numerous	14 A. That's possible. We were on the other
15	officers in the mess hall at the time, and they	15 side. I don't know. I never heard that.
16	called the response. They told them break it up.	16 Q. So you're not aware of whether or not
17	They stopped them immediately and they threw them on	17 the inmates who were -- the other inmates who were
18	the floor and handcuffed them, and that's when this	18 in the mess hall reacted to the two inmates that
19	guy immediately pressed the button and then	19 were fighting?
20	dispensed all the gas in the mess hall.	20 A. No, I'm aware that during the incident
21	Q. Now, these two inmates that were	21 when they were fighting, it was so many officers
22	fighting, did any other inmates get up from where	22 over there, I don't know whether it was officers
23	they were sitting and say anything?	23 screaming or the inmates that were fighting
24	A. No.	24 screaming, but they were saying, "Break it up." And
25	Q. Did the inmates react that were in the	25 they broke it up and it was -- to my recollection,

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1	Trevor Burns	1	Trevor Burns
2	there was no one else yelling or encouraging them or	2	Aside from 15 to 20 officers that was
3	encouraging anyone else to do anything other than	3	around them.
4	watch what was going on. That was basically it.	4	Q. And with where your table -- the table
5	Q. There were no other inmates who left	5	you were sitting at was positioned, you had no
6	their seats or stood up and say -- you know, trying	6	obstruction?
7	to make verbal noises to say carry on the fighting?	7	A. No obstruction at all, no.
8	A. You ain't getting out of your seat in	8	Q. There were no other inmates that were --
9	the mess hall, no.	9	that was blocking your view?
10	Q. And about how long after the two inmates	10	A. Everybody was sitting down.
11	started fighting that these other officers came and	11	Q. And with regard to where you would pick
12	told them to break it up?	12	up the food tray, where were the inmates fighting
13	A. Immediately.	13	with regard to that?
14	Q. When you say "immediately," is that	14	A. They were on the line by the window
15	like --	15	areas.
16	A. Within seconds.	16	Q. And was there anyone on that line?
17	Q. Seconds. And how long did it take for	17	A. Yes, there was other inmates on the
18	those officers to get to where the two inmates were	18	line.
19	fighting?	19	Q. What were they doing? Were they trying
20	A. Within seconds.	20	to encourage the other inmates to fight?
21	Q. Did you have a good vantage point to see	21	A. Not that I recall that.
22	the two inmates that were fighting?	22	Q. How would you describe the energy in the
23	A. Yes.	23	room? Were they excited? Were they calm? Or was
24	Q. Was there anything blocking your view of	24	something --
25	them?	25	A. Energy in the room as far as who?
Page 168		Page 169	
1	Trevor Burns	1	Trevor Burns
2	Q. The inmates.	2	A. Talk to my counselor?
3	A. They just looking at the fight.	3	Q. When you were seeking counseling, did
4	Q. Was anyone saying anything?	4	you bring that up?
5	A. No, not that I recall. No, not at all.	5	A. Yes.
6	Q. What was the volume? Was it loud? Was	6	Q. And what, if anything, were you told?
7	it quiet?	7	A. Try to eat. Don't let the stress mess
8	A. I mean, initially it was loud because	8	up your daily routine as far as your consumption of
9	guys are talking, but then everything would get	9	food. You need nourish, stuff like that.
10	quiet. Everybody look in one direction, then you	10	Q. And when you say "stress," can you tell
11	know something took place. So everybody looking	11	me exactly what you were stressed about?
12	that direction. The officers responded and	12	A. My situation. I don't know whether or
13	handcuffing the guys. They got them on the floor,	13	not I'm having residual side effects later on when I
14	subdued already. Next thing you know, woo, all the	14	get out of here or later on in life or any future
15	gas comes in.	15	respect to what I experienced with the gas or the
16	Q. Now, any other emotional or mental	16	chemical agents that I inhaled, stuff like that, and
17	injuries that we haven't discussed?	17	that was in my eyes.
18	A. No.	18	So I was treated and issued medication,
19	Q. Has your appetite improved?	19	but I wasn't -- I don't believe they issued me the
20	A. A little bit.	20	right treatment or if I seen the right providers.
21	Q. What do you mean by that?	21	In prison, everything is limited to a certain
22	A. Goes up and down. Varies. Depends on	22	degree. If you're not leaving out on a stretcher,
23	the stress level I'm on.	23	they're not really going to treat you no matter what
24	Q. And did you talk to your counselor about	24	it is. Bones is completely broken.
25	the loss of appetite?	25	Q. So when you say you're not sure about

		Page 194	Page 195
1	Trevor Burns		Trevor Burns
2	to, did you ever speak to anyone about the	2	Q. And are the statements contained in the
3	allegations in your complaint?	3	complaint true and accurate?
4	A. No, I don't.	4	A. Yes.
5	(Whereupon, the Complaint submitted on	5	Q. Did anyone assist you in preparing the
6	1/28/16 was marked as Defendant's Exhibit Number A	6	complaint?
7	for Identification.)	7	A. No.
8	Q. Mr. Burns, I'm showing you what's been	8	Q. Did anyone tell you what had to be
9	marked as Defendant's Exhibit A.	9	written into the complaint?
10	A. Yes.	10	A. No.
11	Q. Do you recognize that document?	11	Q. Looking at Page 5 of the complaint,
12	A. Yes.	12	allegation -- Paragraph Number 11, can you tell me
13	Q. What do you recognize it to be?	13	what you mean by the statement, "Nagy maliciously
14	A. The complaint I filed against the	14	released canisters of chemical agents that serve no
15	defendants in this case.	15	justifiable penological purpose"? If I'm
16	Q. Did you prepare the complaint in this	16	pronouncing it right.
17	action?	17	A. Can I tell you what I mean by that?
18	A. Yes.	18	Q. What do you mean by that?
19	Q. What day was it filed with the court?	19	A. It didn't serve a purpose because of the
20	A. I don't know. It doesn't state. I	20	guys that were fighting was already subdued, so
21	don't know the exact date it was filed, but I	21	there was nothing else or no other reason for him to
22	submitted it on January 28th, 2016.	22	release this gas or release the chemical agents
23	Q. And prior to the complaint being filed	23	aside from probably a full scale riot or something
24	with the court, did you review it?	24	like that.
25	A. Yes.	25	Q. Are you familiar with the rationale for
		Page 196	Page 197
1	Trevor Burns		Trevor Burns
2	why gas would be released?	2	medical personnel, and they have a particular
3	A. A little bit, not totally.	3	process in which to ensure that you're not harmed
4	Q. What's the basis for your information?	4	further as a result of the gas or the residue of the
5	A. Safety and security of the facility and	5	gases being on your body.
6	prisoners -- I mean, facility property and officers.	6	So my understanding is you're supposed
7	Q. Who's involved in the decision making	7	to immediately be taken to a shower or perhaps some
8	for the release of the gas?	8	type of agent -- not agent, but some type of wash on
9	A. I believe the officers' discretion --	9	your body and your eyes, stuff like that, as opposed
10	it's up to the discretion to determine whether or	10	to them just sitting for hours or whenever they can
11	not the situation warrants the release of a certain	11	get a chance to see you.
12	amount of gas, or I believe a high-ranking official	12	Q. Is the evacuation of the inmates from
13	such as a sergeant, if he notifies the	13	the area where the gas was released into a neutral
14	superintendent, and his approval or the officer of	14	environment not the start of the contamination
15	the day, that's the OD, and then he's allowed to, I	15	process?
16	guess, release it depending on the situation and	16	A. Actually, I don't know that, but I'm
17	circumstances.	17	trying to ascertain that information, but that's
18	Q. Moving on to Page 6. What is your	18	like safety and security. So I don't -- I can't
19	understanding of the decontamination procedures with	19	give you an answer with respect to that.
20	regard to the exposure of chemical gas?	20	Q. And looking at Number 18 on Page 6,
21	A. I mean, my understanding is that	21	beginning with "Tokarz ordered Burns to proceed to A
22	initially when anyone is subjected to the amount of	22	and B yard," can you tell me how that order was
23	gas that I was subjected to, it's the duty of the	23	communicated to you?
24	officer that's in charge to immediately allow	24	A. Told us to go to A and B yard.
25	prisoners or inmates to see medical staff and	25	Everybody move and move to the A and B yard.

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1	Trevor Burns	1	Trevor Burns
2	Q. Did he say that to you directly?	2	conversation with Lieutenant Tokarz?
3	A. He said it to me directly, everybody	3	A. It's not actually a one-on-one personal
4	else that was on the wall at the time.	4	conversation, but it's like a passing by. You're
5	Q. And about where were you located from	5	trying to express what's going on, what you're going
6	him?	6	through, and he's basically not trying to hear it.
7	A. Not too far. A few feet away. We all	7	So he say -- for us acting like, yo, I need to see
8	have to walk by him any way so --	8	the nurse, doc, you'll see them, go, A and B yard,
9	Q. Was he facing you at the time he said	9	proceed to A and B yard. You got the guidance tower
10	this?	10	pointing a gun. You got officers around us with
11	A. Yes.	11	sticks. That was --
12	Q. And did you give any kind of	12	Q. Then you had other inmates that were
13	acknowledgment that you had heard his order?	13	also evacuating into the yard?
14	A. Yeah. I'm trying to talk him. He	14	A. Yes, at the same time.
15	doesn't want to hear nobody.	15	(Recess taken at 2:57 p.m. and resumed
16	Q. Did you tell him that you were	16	at 3:01 p.m.)
17	experiencing any kind of difficulties?	17	Q. Moving on to Defendant's Exhibit A, Page
18	A. Everybody -- I know I was. I was one of	18	7. You said that Shaw refused to call the emergency
19	the few that was kind of relaying this information	19	response in Paragraph 24, but stated that he would
20	to him, but he didn't want to hear that. Plus the	20	call on the phone. How did you know that he
21	guy has a gun pointed at us, and the officers around	21	refused?
22	us with sticks, so you're not really trying to get	22	A. He was right there. He said I'm not
23	too out of order to talk to a lieutenant.	23	calling. When him and the other officer witnessed
24	Q. But when you say you're trying to relay,	24	me, you know, regain consciousness, standing right
25	I'm trying to understand if this was a one-on-one	25	there, he said I'm not calling. But then he walk
	Page 200		Page 201
1	Trevor Burns	1	Trevor Burns
2	away laughing to my -- oh, big guy wanted me to	2	A. Oh, this was hours after I initially
3	call, but he never called.	3	asked the officer to assist me and the officer asked
4	Q. Are you saying that he never called on	4	Shaw to call the response, and he denied to do so.
5	the phone?	5	This was about three to four hours later.
6	A. No, on the walkie-talkie. I don't know	6	Q. But on the same day, August 3rd?
7	whether he called on the phone or not, but they said	7	A. On the same day, August 3rd, yes.
8	they wasn't going to see me, so obviously he didn't,	8	Q. And I believe your testimony is that you
9	because everybody else that requested medical	9	saw a medical professional that next day?
10	treatment and asked them to call, they were	10	A. Yes.
11	receiving responses, emergency responses, and people	11	Q. And, again, had Shaw witnessed you
12	were coming in to see them. So I asked for the same	12	experiencing any of the symptoms that you talked
13	thing. They didn't give it to me.	13	about, the fainting, vomiting?
14	Q. Who were these other people that were	14	A. No. He knew because the officer that
15	getting this response? What are their names?	15	was on the company conveyed it to him. Plus he seen
16	A. One were -- I don't know. I think you	16	the vomit and stuff right there in front of my cell.
17	have one of the documents redacted in a log that you	17	He seen --
18	have in your response. I know it says that, but I	18	Q. How do you know he saw it?
19	don't know if he actually called.	19	A. Like how you're sitting there, that's
20	Q. When you say "hours later," can you tell	20	how close we were. I'm just inside the cell.
21	me what time frame you're talking about on 25?	21	Q. So was it a face-to-face?
22	A. Hours later with respect to what?	22	A. Face-to-face, exactly.
23	Q. "Shaw told the company correction	23	Q. And the vomit, where was that located?
24	officer to inform me that medical could not see me	24	A. Right on the floor in the cell.
25	until tomorrow." What's "hours later"?	25	Q. And about how much vomit was there?

Page 202		Page 203
1	Trevor Burns	Trevor Burns
2	A. I don't know.	1 him or grievances with respect to the guy in A-Block
3	Q. Going on to Page 8, Paragraph 30, you	2 that was assaulted. Family that was called to the
4	mentioned that Griffin conducted a diligent thorough	3 facility actually knew a guy that used to hang out
5	review. Can you tell me how you're aware of that?	4 with him that said his family called Superintendent
6	A. That's the process in which it's done.	5 Griffin within days and so and so forth, and
7	I received a few responses from people that --	6 obviously he was aware of it, at least, at a
8	officers that he actually had conduct some of the	7 minimum.
9	review, and that's basically what he did was a	8
10	thorough review of the information that I had and	9 Q. How do you know he was aware?
11	questioning the witnessed that I'm aware of.	10 A. Because according to the grievance
12	I wasn't actually sitting there with	11 policy and procedure, when there's a Code 49, it
13	him, but based upon the response from the officers	12 goes directly to the superintendent. So it's his
14	that was dispatched to go ascertain information to	13 obligation to review it personally and investigate
15	give it to him so he could make the ultimate	14 it or send it to OSI or take further action. So if
16	determination of whether or not my allegations could	15 someone alleges complaints of assaults or sexual
17	be substantiated, you know, that's basically how I	16 activities or something like that, then it goes
18	concluded that it was a thorough review, because	17 directly to him for his review. So he has to review
19	normally they don't do that. You won't hear	18 it. That's his capacity. That's his job.
20	nothing.	19 Q. Do you have any evidence that he was
21	Q. And then 31, the final paragraph, you	20 actually involved?
22	talked about the assault -- Nagy being accused of	21 A. Who?
23	assault and that Griffin was aware. How do you know	22 Q. The superintendent.
24	he was aware of that incident?	23 A. That he was actually involved with --
25	A. Because the grievance was filed against	24 Q. That he was -- he actually reviewed that
Page 204		25 grievance.
1	Trevor Burns	Trevor Burns
2	A. With the guy that was jumped or	1 this officer that let him run roughshod throughout
3	whatever, allegedly jumped in A-Block?	2 the entire prison without telling him you can't do
4	Q. Yes.	3 that.
5	A. According to -- I mean, I concluded	4
6	that. I can't say I have actual proof on that.	5 Q. And how do you know that he's never had
7	Q. What was the name of the inmate that was	6 any kind of conversation or any kind of
8	in A-Block?	7 communication with Nagy about his conduct?
9	A. I don't recall his name.	8 A. Because he continued to do it. I mean,
10	Q. And you mentioned -- you allege in	9 obviously, if your superior tells you, Listen, you
11	Paragraph 31 that Griffin failed to remedy the	10 can't do this, you should do that, and then you
12	malfeasant. What do you mean by that?	11 continue to do it, obviously you didn't have no type
13	A. He failed to remedy the misconduct on	12 of -- no conversation, or I'm assuming that he would
14	the 16th or, at least, after that. I mean, he could	13 adhere to, you know. So I mean, I can't give you
15	have -- basically on August 3rd when Nagy released	14 definitive answers, but I can conclude that based
16	the chemicals, so on and so forth, this guy has a	15 upon his actions as opposed to, you know, saying
17	history -- you're not aware of this, but he has a	16 that I know for a fact like I was sitting there. I
18	history of abuse throughout the entire facility. I	17 wasn't sitting there, so I don't know what he said
19	made him aware of it, this guy's behavior's, his	18 or what he didn't say.
20	misconduct. The guy that was jumped a few days	19 Q. Have any of the allegations of
21	later made them aware of Nagy's misconduct, and he	20 misconduct that you know of against Officer Nagy
22	failed to, at least, try to curb it or tell him,	21 ever been substantiated by the department of
23	Listen, guy, you can do this. This is prison. You	22 corrections and the supervision? I'm trying to say
24	know, we're not conducting an abuse camp here. So	23 the whole thing.
25	he basically fostered the policy and procedures of	24 A. No.
		25 Q. And Number 32, you said that Griffin was





	Page 214	Page 215
1	Trevor Burns	Trevor Burns
2	me, if I take my hands off the wall, I can't tell	2 Q. So as people were coming out of that
3	you what it means. So the guy's pointing a gun.	3 corridor into the C and D yard, how were they
4	You got the officers standing behind us with their	4 getting in there? Were they doing it in an orderly
5	sticks in a threatening manner. He's saying, Take	5 fashion? Were they lined up and walking?
6	them down if they take their hands off the wall. So	6 A. No. It wasn't lined up. Okay. After
7	no matter what pain or injuries you sustained, you	7 the big pileup coming out of the mess hall, there
8	better keep your hands on that wall or you might get	8 were additional officers stationed by C and D yard
9	something you really don't want.	9 and through that little corridor area to enter the
10	Q. How would you describe the situation	10 yard. And once guys running toward that area, they
11	that was happening inside the rec yard?	11 will instruct you, "Slow down," "Go this way," "Walk
12	A. It was traumatic, man. Someone never	12 this way." And they got the guys standing right
13	experienced this. It's frightening to a certain	13 outside of the door -- or inside of the door with
14	degree. I know it's prison. A guy supposed to be	14 the camcorder, and you go by and look at you. Then
15	ultimately bad guys and tough and so on and so	15 you have the lieutenant standing right there and
16	forth, but it's scary when you just -- when you were	16 he's instructing people what to do. So everything
17	just subjected to some chemicals and now you're in a	17 was basically in an orderly fashion from that point.
18	lot of pain like I was, and you're being threatened	18 Now, from inside the mess hall to the
19	with a gun at your back with a marksman in the	19 second deployment of the gas that this officer
20	tower. So that's basically --	20 released, it was panic. It was total chaos. Even
21	Q. Would you describe it as being chaotic	21 the officers were running, falling, sergeants,
22	in the yard?	22 everybody is running down there.
23	A. No. It was -- everything was in an	23 So once we got in that corridor,
24	orderly fashion. It wasn't chaotic. They had	24 everything was basically in an orderly fashion.
25	everything --	25 Inside the mess hall was panic. Coming out, panic.
	Page 216	Page 217
1	Trevor Burns	Trevor Burns
2	Corridor, orderly fashion. Once we enter the yard,	2 A. Couple feet behind us. He's directing
3	everything was basically in an orderly fashion.	3 the officers what to do, telling them what to do,
4	Q. After you entered the rec yard, were	4 move them back, running -- I mean, walking back
5	there other inmates that came in after you?	5 forth, issuing directions and orders to the inmates
6	A. Yeah, before and after.	6 and officers alike what to do.
7	Q. Now, was Lieutenant Tokarz aware of the	7 Q. Was he the only lieutenant that was in
8	symptoms and conditions that you explained earlier?	8 that area?
9	A. I think so, yes.	9 A. The only lieutenant that I seen, yes.
10	Q. How was he aware?	10 Q. Why are you suing Superintendent
11	A. I mean, he could see it. Obviously he's	11 Griffin?
12	aware or he was just -- or he just disregarded it to	12 A. Because he failed to remedy a wrong,
13	a certain degree, but I tried -- like I said, I	13 failed to manage the subordinates. He's in a
14	tried to convey to him, you know, certain things as	14 supervisory position that was personally involved
15	far as what I was experiencing. He was not trying	15 with the incident by failing to curb the actions of
16	to hear it. Keep walking, move, go this way, so and	16 Nagy. He basically enforced his actions and allowed
17	so forth, so, you know, that's --	17 unconstitutional practices to continue while --
18	Q. And he was positioned at the entrance to	18 despite the numerous complaints being submitted to
19	that yard or someplace else?	19 him, so I believe he should have been at least more
20	A. Initially he was at the entrance, but	20 so hands-on with respect to disciplining his
21	then we were like told toward the phone area, to the	21 officers once he was aware and had the power to do
22	D-Block corridor, and we followed that area, and	22 so.
23	after that area, he was kind of like behind us near	23 Q. And when you said that there were
24	the television area.	24 numerous complaints, what number are you referring
25	Q. And what was he doing?	25 to?

2	I	N	D	E	X
3	INDEX TO TESTIMONY				
4	WITNESS	ATTORNEY	PAGE		
5	Trevor Burns	J. Dawkins	4		
6	EXHIBITS				
7	PAGE				
8	Defendant's Exhibit Number A	194			
	-- Complaint submitted on 1/28/16				
9	Defendant's Exhibit Number B				
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	-- Grievance				
11	Defendant's Exhibit Number C	218			
	-- Grievance dated 8/3/15				
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18	Defendant's Exhibit Number H				
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20	REQUESTS	PAGE	LINE		
21					
22		127	12		
23	(Exhibits retained by Attorney Dawkins.)				
24					
25					

2

## ERRATA SHEET

3 NAME OF CASE: Trevor Burns -v- Thomas Griffin, et al

4 DATE OF DEPOSITION: April 28, 2017

5 NAME OF DEONENT: Trevor Burns

PAGE	LINE(s)	CHANGE	REASON
6	<u>151</u> <u>13</u>	<u>I developed excruciating nasal and throat infection.</u>	<u>Did not recall at time of deposition</u>
7			
8	<u>152</u> <u>17</u>	<u>Excruciating nasal and throat infection requiring antibiotics</u>	<u>Did not recall at time of deposition</u>
9			
10	<u>32</u> <u>6</u>	<u>Nightmares, anxiety, stress disorder, mental anguish, and mental distress</u>	<u>Did not recall at time of deposition</u>
11			
12			
13	<u>210</u> <u>15</u>	<u>developed nasal and throat infection requiring antibiotics</u>	<u>Did not recall at time</u>
14			
15			
16		<u>Trevor Burns</u>	

Trevor Burns

17

Subscribed and Sworn to Before Me

18 This 23 Day of May, 2017.

19

Trevor Burns

20

(Notary Public)

My commission expires:

5/18/2019